



MEKONG MIGRATION NETWORK

PROCEEDINGS OF THE CONSULTATION ON LABOUR MIGRATION FROM VIETNAM TO JAPAN



24 July 2019
Hanoi, Vietnam

Acknowledgements

Many individuals and organisations contributed to the Consultation on Labour Migration from Vietnam to Japan and ensured its success. We wish to acknowledge their efforts with special thanks.

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Plenary II: Mr Mikio Hayashi, First Secretary, Embassy of Japan in Vietnam; and Professor Wako Asato, Kyoto University

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Acronyms

CSO	Civil Society Organisation
CoC	Code of Conduct
DOLAB	Department of Overseas Labour, Vietnam
EPA	Economic Partnership Agreement
GMS	Greater Mekong Subregion
ILO	International Labour Organization
JITCO	Japan International Training Cooperation Organization
MMN	Mekong Migration Network
MoC	Memorandum of Cooperation
MRC	Migrant Resource Centre
MOLISA	Ministry of Labour-Invalids and Social Affairs, Vietnam
SSW	Specified Skilled Workers, Japan
SDGs	Sustainable Development Goals
TITP	Technical Internship Training Program
VAMAS	Vietnam Association of Manpower Supply

Introduction

On 24 July 2019, the Mekong Migration Network (MMN) organised the Consultation Meeting on Labour Migration from Vietnam to Japan in Hanoi, Vietnam. The consultation provided a platform for representatives of different stakeholder groups to exchange information about recruitment procedures from Vietnam to Japan, and jointly explore interventions and strategies to improve protections provided to migrant workers. The workshop was organised in anticipation of increased labour migration from Vietnam to Japan as Japan seeks to plug gaps in its rapidly shrinking labour force. Under the Technical Internship Training Programme (TITP), Vietnam is Japan's largest source of migrant workers, and numbers are expected to increase following the Japanese government's announcement that it intends to welcome an additional 345,000 migrant workers within five years. To facilitate this policy change, Japan amended its strict immigration laws and added a new "Specified Skilled Worker" (SSW) visa category. In July 2019, Japan signed a bilateral Memorandum of Cooperation (MoC) with Vietnam to facilitate the implementation of the new scheme.



▲ *Participants at the Consultation*

Given these developments, MMN gathered a diverse group of over 50 participants to exchange views, including representatives of the Embassy of Japan in Vietnam, the Department of Overseas Labour (DOLAB) under the Ministry of Labour-Invalids and Social Affairs (MOLISA) in Vietnam, the Vietnam Association of Manpower and Supply (VAMAS), intergovernmental organisations, civil society organisations (CSO), and recruitment agencies.

The day's plenaries addressed a number of topics, including challenges faced by migrant workers throughout the migration cycle, issues related to high recruitment fees involved in migration from Vietnam to Japan, international standards on the collection of recruitment fees and other related costs, the roles of the governments of Vietnam and Japan and recruitment agencies in supporting migrant workers, and the trajectories and concerns surrounding migration to Japan under the newly created SSW scheme. Following the plenaries, participants discussed the opportunities and challenges involved in the migration of workers from Vietnam to Japan, specifically the themes of developing human resources, achieving decent work, and facilitating ethical recruitment practices. The consultation ended with participants collectively developing recommendations to improve existing migration mechanisms, improve channels of information dissemination, enhance international cooperation, and expand support for migrant returnees.

Agenda

- 9:00-9:15** **Welcome and introduction**
Facilitated by: Ms Reiko Harima, Regional Coordinator, Mekong Migration Network
- 9:15-10:15** **Plenary One: The Recruitment and Deployment of Vietnamese Workers to Japan: Policies, Trends, and Gaps**
Facilitated by: Ms Reiko Harima
Panellists:
Mr Nguyen Ngoc Quynh, Vice President of Vietnam Association of Manpower Supply; and
Ms Nguyen Thi Mai Thuy, National Programme Coordinator, FIRST Project, International Labour Organization Country Office in Hanoi
- 10:15-10:45** **Group Photo and Tea Break**
- 10:45-12:00** **Plenary Two: The Employment of Migrant Workers to Japan: Policies, Trends, and Gaps**
Facilitated by: Ms Reiko Harima
Panellists:
Mr Mikio Hayashi, First Secretary, Embassy of Japan in Vietnam; and
Professor Wako Asato, Kyoto University
- 13:30-16:00** **Joint Discussion**
Identifying Opportunities and Challenges from Different Perspectives
Gaps, Recommendations and Going Forward
- 16:00** **Closing Remarks**

Welcoming Remarks

Ms Reiko Harima, Regional Coordinator, Mekong Migration Network



▼ Ms Reiko Harima

Ms Reiko Harima began by introducing the background and objectives of the consultation meeting. The consultation comprised part of a broader project to better understand the roles of major countries of origin in the Greater Mekong Subregion (GMS), namely Cambodia, Myanmar, and Vietnam, in protecting migrant workers

throughout the migration cycle. Given the increasing trends of workers from Mekong countries migrating to Japan and the need to identify the opportunities and challenges involved in the migration process, MMN launched a series of multi-stakeholder meetings in Myanmar (October 2018), Cambodia (February 2019), and Japan (July 2019) to better understand the migration experience from different perspectives.

In the meeting in Japan, MMN brought together various stakeholders to exchange views from the perspectives of countries of origin in the GMS and Japan. Participants included representatives of recruitment agencies associations from Vietnam, Cambodia, and Myanmar. During the meeting, associations of recruitment agencies and CSOs discussed practical solutions to existing problems involved in the migration process, such as adopting a zero recruitment fee model to alleviate high migration costs charged to workers. Under such a model, all recruitment fees would be borne by employers. While representatives of VAMAS, the Association of Cambodian Recruitment agencies, and the Myanmar Overseas Employment Agencies Federation believed adopting the model is not feasible at present, Ms Harima found it encouraging that participants were willing to engage in such a dialogue about future workable solutions.

This consultation in Vietnam had four objectives: 1) to learn about Vietnam's policies for recruiting and sending workers to Japan, and the available services and assistance provided to migrant workers; 2) to learn about Japan's policies for accepting migrant workers, and the existing efforts and challenges in providing services to on-site migrant workers; 3) to learn from VAMAS and recruitment agencies in Vietnam about current trends and future plans in recruiting workers to Japan; and 4) to identify opportunities and challenges involved in the migration of workers to Japan, and explore areas for further multi-stakeholder collaboration.

Plenary One

The Recruitment and Deployment of Vietnamese Workers to Japan: Policies, Trends, and Gaps

Mr Nguyen Ngoc Quynh, Vice President of Vietnam Association of Manpower Supply

Mr Nguyen Ngoc Quynh began his presentation by discussing the different migration pathways enabling Vietnamese workers to migrate to Japan. Since 1992, Vietnamese workers have been migrating to Japan under the TITP. In the TITP's original design, migrant workers received nine months of training before they began work as "technical intern trainees".¹ The Japanese government later shortened the period of training to two months. In 2017, the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees came into effect in Japan, which extended TITP workers' period of stay in Japan to a maximum of five years and created the Organization for Technical Internship Training as the primary organisation aimed at protecting the rights of migrants. In response to the new law, Vietnam and Japan renewed their MoC on the TITP in 2017 to facilitate the recruitment of Vietnamese workers under the reformed system.



▼ Mr Nguyen Ngoc Quynh

In 2012, Vietnam and Japan also signed the Economic Partnership Agreement (EPA), which established a separate channel for Vietnamese care workers to work in elderly care facilities in Japan.² Under the EPA, the governments of Vietnam and Japan oversee the migration pathway, and

no recruitment agencies are involved in the process. To date, around 1,000 Vietnamese care workers have migrated through processes established by the agreement.

Regarding the recently created SSW migration pathway, Vietnam and Japan signed a new MoC in July 2019 that outlines the roles and responsibilities of both governments in

¹ Although governments, recruitment agencies, and employers often refer to workers under the TITP as "interns" or "trainees", the degree of skills transfer that actually takes place under the TITP is a subject of controversy. This proceeding uses the term "migrant workers," which more accurately captures their status/role.

² While there are a number of terms to describe individuals who provide care services to others, including "caregivers" and "caretakers", this proceeding hereafter uses the term "care workers" to better illustrate this group of people as workers who provide care services.

recruiting and sending Vietnamese workers to Japan. However, guidelines to implement the MoC have yet to be finalised, which leaves uncertain the exact duties of recruitment agencies under the SSW, and the maximum amount of fees they can charge from prospective workers. Mr Quynh believed it was important to develop these guidelines soon to prevent unlicensed recruitment agencies or those acting illegally to take advantage of workers.

While there have been concerns about Vietnamese migrant workers leaving their work without properly terminating their contract,³ Mr Quynh stated that the actual number of migrants doing so could be as low as two to three per cent of the entire Vietnamese migrant population in Japan. As labour rights violations at workplaces could be one reason why migrant workers leave their jobs, recruitment agencies in Vietnam have increased cooperation with employers in Japan to ensure workers receive fair treatment at their workplaces. At the pre-departure stage, recruitment agencies have also provided better language and skills training, lasting between four to seven months, to better prepare prospective migrants for their work in Japan.

Mr Quynh concluded his presentation by introducing the work of VAMAS. In 2010, VAMAS collaborated with the International Labour Organization (ILO) to develop an industry Code of Conduct (CoC), which provides guidelines for ethical recruitment procedures. In 2018, VAMAS renewed their CoC with the support of ILO and the International Organization for Migration. The new CoC contains 12 sections to outline ethical practices at different stages of the migration cycle, and reflects standards stipulated in national laws and international conventions. Recruitment agencies subscribe to the CoC on a voluntary basis. Currently, 250 of 400 licenced agencies in Vietnam are members of VAMAS. Of these 250, around 120 have subscribed to the code.

Six years ago, VAMAS established a ranking system to rate subscribing agencies' compliance with the CoC. The evaluation involves two parts: In the first part, recruitment agencies assess their own performances in fulfilling stipulations of the CoC. Results of the self-assessment are cross-checked by a council consisting of representatives of VAMAS and government agencies, such as DOLAB. In the final part of the review, the

³ Governments, recruitment agencies and employers often refer to these workers as "runaways". However, the term suggests wrongdoing and culpability of migrants when leaving their jobs and does not fully capture their underlying reasons for leaving, which are often related to poor working conditions and unfair treatment in the workplace. The problematic usage of the term "runaways" was pointed out at the consultation meeting. For this reason, this document utilises the phrase "migrants leaving their jobs without properly terminating their contracts" instead.

council ranks recruitment agencies on a five-star scale, with five stars indicating full compliance.

Ms Nguyen Thi Mai Thuy, National Programme Coordinator, FIRST Project, International Labour Organization Country Office in Hanoi

Ms Nguyen Thi Mai Thuy began by sharing trends about migration from Vietnam to Japan. In recent years, the demand for Vietnamese workers in Japan has increased. Between 2013 and 2018, the number of migrants going to Japan increased 8.5 fold. Women account for 30-40% of all migrants going to Japan. According to statistics provided by MOLISA, 160,000 Vietnamese workers are now in Japan and remittances from Japan to Vietnam total 1.5 to 1.7 billion USD, which is equivalent to around 50% of all remittances to Vietnam from abroad.



High migration fees continue to be an issue faced by prospective migrants going to Japan. In Vietnam, recruitment agencies are not allowed to charge more than 3,600 USD to those migrating under the TITP. However, according to a recent study by the Vietnam Institute for Economic & Policy

Research, prospective migrants on average pay 5,300 USD to recruitment agencies. At times, migration fees can reach 7,000-10,000 USD. Many migrant workers who originate from poor households experience difficulties affording high migration costs and take out loans to migrate. In addition to high fees, the continued presence of brokers in the migration process could leave migrants less protected. Oftentimes, brokers do not provide prospective migrants with comprehensive information about the risks and opportunities of migration or the rights and entitlements of workers. Without such information, prospective migrants might not be able to fully assess the benefits and challenges involved in migrating to Japan before they decide to leave Vietnam.

In Japan, labour rights violations at workplaces are still common. Migrant workers have reported cases of illegal deduction of wages, unpaid overtime working hours, and physical abuse at work. Despite these experiences, some migrant workers continue to endure abuse and exploitation because they face restrictions in terms of changing employers under the TITP. Others choose to leave their work without properly

terminating their contract and continue to stay in Japan as irregular workers with fewer protections under Japanese laws.

A number of existing international instruments and blueprints establish standards for ethical recruitment practices. One example is the International Labour Organization Convention 181 Concerning Private Employment Agencies (C181), which Japan has been a member of since 1999. C181 states that member states “shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing and certification, except where they are otherwise regulated or determined by appropriate national law and practice.”⁴ Consultation with organisations representing employers and workers is necessary before the government promulgates regulations on licensing and certification.⁵ The convention also states that member states should develop mechanisms to respond to complaints and investigate “alleged abuses and fraudulent practices” of private employment agencies.⁶ Regarding the collection of recruitment fees, Article 7 states that “private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.”⁷ Member states should consider concluding bilateral agreements with other members to better protect workers in the processes of recruitment, placement, and employment.⁸

The ILO Recommendation 188 Concerning Private Employment Agencies also states that member states should adopt necessary measures to prevent and eliminate unethical practices by private employment agencies⁹, such as by combating “unfair advertising practices and misleading advertisements”.¹⁰ Private employment agencies should not recruit workers for jobs that involve “unacceptable hazards or risks”.¹¹

⁴ International Labour Organization Convention 181 - Private Employment Agencies Convention, 1997 (No. 181), Article 3.2, accessible at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326.

⁵ Ibid., Article 1(c).

⁶ Ibid., Article 10.

⁷ Ibid., Article 7.

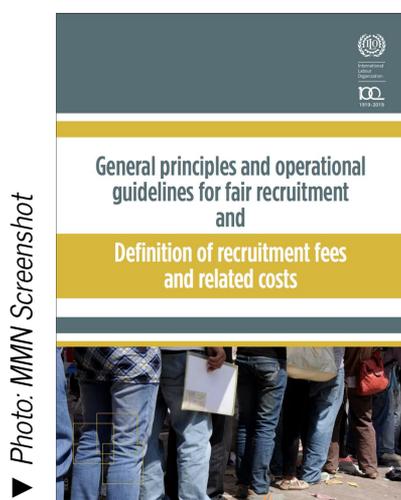
⁸ Ibid., Article 8(2).

⁹ International Labour Organization Recommendation 188 - Private Employment Agencies Recommendation, 1997 (No. 188), Article 4, accessible at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:SUP,en,R188./Document.

¹⁰ Ibid., Article 7.

¹¹ Ibid., Article 8.

Under the United Nations Sustainable Development Goals (SDGs), Target 10.7 aims to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.”¹² One indicator (Indicator 10.7.1) of the target is “recruitment cost borne by employee as a proportion of yearly income earned in country of destination”, which shows the level of costs incurred by migrants to secure a job abroad relative to their income in the destination country.¹³ Another indicator (Indicator 10.7.2) is the “Number of countries with well-managed migration policies;”¹⁴ which assesses whether countries have sufficiently protected migrants’ rights and fostered cooperation with other countries through bilateral agreements to prevent violations and situations of abuse. Vietnam has adopted Indicator 10.7.1 on recruitment costs into its national monitoring mechanism for the implementation of the SDGs.



In 2016, ILO published the General Principles and Operational Guidelines for Fair Recruitment (hereafter “Principles and Guidelines”), which outlines 13 general principles for fair recruitment. One of these principles states that “no recruitment fees or related costs should be charged to, or otherwise borne by, workers or job seekers.”¹⁵ In 2018, the ILO supplemented the Principles and Guidelines with a definition of ‘recruitment fees and related costs’. Recruitment fees or related costs refer to “any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.”¹⁶

¹² United Nations, Transforming our World: The 2030 Agenda for Sustainable Development, Target 10.7, p.25, accessible at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.

¹³ United Nations, “Indicator 10.7.1: Recruitment cost borne by employee as a proportion of yearly income earned in country of destination”, accessible at <https://unstats.un.org/sdgs/metadata/files/Metadata-10-07-01.pdf>.

¹⁴ United Nations, “Indicator 10.7.2: Number of countries with well-managed migration policies”, accessible at <https://unstats.un.org/sdgs/metadata/files/Metadata-10-07-02.pdf>.

¹⁵ International Labour Organization, “General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs”, Principal 7, p.13, accessible at https://www.ilo.org/wcmsp5/groups/public/—ed_protect/—protrav/—migrant/documents/publication/wcms_536755.pdf.

¹⁶ Ibid., p.28.

According to this definition, recruitment fees and related costs would cover, among other things, costs for skills and qualification tests, costs for training and orientation, and insurance costs, which are all required to secure employment abroad or imposed during the recruitment process.¹⁷

In the final part of her presentation, Ms Thuy introduced the activities of ILO in Vietnam, including collaborating with MOLISA and employer and worker representatives to impose sanctions on recruitment agencies violating regulations, developing standard contracts, and enhancing the capacity of existing complaint mechanisms. Since 2018, ILO has supported MOLISA in revising the Law on Vietnamese Workers Working Abroad Under Contract (No. 72/2006/QH11) and reviewing the enforcement of the law. The review has revealed that migrants who use formal channels for migration continue to incur high money and time costs. In addition to the review, ILO assists the operation of five Migrant Resource Centres (MRCs) in Vietnam. MRCs provide comprehensive information to migrants and their family members on topics related to migration, and support them in accessing justice in cases where they face abuse and exploitation. Staff members at MRCs attend training courses provided by ILO about international standards on recruitment and migration procedures.

Open Forum

Responding to a section of Ms Tuy's presentation about the ILO C181, Ms Reiko Harima from MMN shared about a recent meeting MMN had with the Japan International Training Cooperation Organization (JITCO) in Tokyo, Japan. During the meeting, a representative of JITCO pointed out that Japan has ratified ILO C181 but Cambodia, Myanmar, and Vietnam have not. The JITCO representative believed that different ratification statuses of the convention was the main reason for varying recruitment standards across countries of origin, especially with regards to the collection of recruitment fees. In addition to the meeting with JITCO, Ms Harima shared one case about a migrant worker signing employment contracts in Japanese and her own language that contained different clauses. While the Japanese contract fully complied with the laws of Japan, the other version of the contract included stipulations that were clear violations of Japanese labour laws, including ones that forbade workers from joining trade unions, and required pregnant workers to return home.

¹⁷ *Ibid.*, p.29.

A representative of a CSO in Vietnam then queried whether standards established by C181 have been incorporated into Japanese laws. Ms Tuy responded that once Japan signed and ratified C181, it was obliged to incorporate standards of the convention into its national laws.



▲ A CSO representative from Vietnam

Plenary Two

The Employment of Migrant Workers to Japan: Policies, Trends, and Gaps

Mr Mikio Hayashi, First Secretary, Embassy of Japan in Vietnam

Mr Mikio Hayashi shared recent trends related to Vietnamese migration to Japan. As of 2018, the Vietnamese population is the third-largest group of migrants in Japan, after China and Korea. Under the TITP, Vietnam has surpassed China as the biggest country of origin. The number of Vietnamese migrants who overstayed their visa increased by 65% between 2018 and 2019. In 2017, more than half of those who left their jobs without properly terminating their contracts under the TITP were from Vietnam. Mr Hayashi also noted concerns about Vietnamese migrants committing crimes in Japan, although the majority of arrests were for minor offences. He acknowledged that many Vietnamese workers migrate to Japan with huge debts or financial difficulties along with expectations to provide for their families, which could be factors leading them to commit minor offences.

The Embassy of Japan in Vietnam plays a number of roles in facilitating migration from Vietnam to Japan, including 1) screening migration applications to prevent forged documents; 2) sharing information with the governments of Japan and Vietnam, especially with regards to recruitment agencies in Vietnam and Supervising Organisations¹⁸ in Japan that have engaged in improper and/or illegal practices; 3) making public information on illegal intermediaries or recruitment agencies in Vietnam; 4) disseminating information to prospective migrants, including using social media to disseminate news and hosting seminars in different cities and rural areas of Vietnam; and 5) supporting Japanese and Vietnamese lawyers who provide legal advice to migrant workers.

While the TITP's primary objective is to transfer skills to workers from developing countries in order for them to contribute to their country's development after spending some time in Japan, the SSW scheme's purpose is to fill gaps in Japan's labour market. For this reason, only 14 industries that are facing serious labour shortages are permitted

¹⁸ Under the TITP, "Implementing Organisations" conduct the technical intern training. "Supervising Organisations" are non-profit organizations such as business cooperatives and societies of commerce and industry, which monitor their affiliated "Implementing Organisations" to ensure that migrant workers receive sufficient protection at their work sites. For more information on the structure of the TITP, please visit <https://www.iitco.or.jp/en/regulation/index.html>.

to recruit SSW workers. To qualify for the SSW scheme, workers have to pass skill and language examinations. Workers who have completed the TITP can also apply to change their visa status to the SSW. The SSW is divided into two further subcategories—(i) and (ii). For workers under the SSW (i) visa category, the maximum period of stay is five years, during which they cannot bring their family with them. If workers in the construction, shipbuilding, and machinery sectors pass an expert-level examination, they may advance from the SSW (i) to the SSW (ii) visa category, in which they are permitted to stay indefinitely and may bring with them members of their family.

In July, Japan and Vietnam signed an MoC to facilitate the smooth implementation of the SSW scheme. Under the agreement, the Vietnamese government is responsible for approving sending organisations recruiting workers under the SSW. Prospective migrants must be on the Vietnamese government's recommendation list in order to migrate. Workers who have completed the TITP and wish to switch to the SSW scheme have to be on the recommendation list of the Vietnamese Labour Management Section in Japan. The MoC requires Vietnamese students in Japan to complete courses for at least two years before they qualify to switch to the SSW visa category. The agreement also specifies areas that Vietnamese workers are not allowed to work in, including radioactive zones.



▼ Mr. Mikio Hayashi

Professor Wako Asato, Kyoto University

Professor Wako Asato commented that the current migration system in Japan is complicated, with several migration pathways involving varying actors and enabling different groups of Vietnamese workers to move to Japan. Through one of these pathways, Vietnamese care workers can migrate to Japan under processes established by an EPA signed between Vietnam and Japan in 2012. The governments of Vietnam and Japan are wholly responsible for recruitment and migration procedures, and no

recruitment fees are charged to workers. Workers also receive training funded by the Japanese government. Via a different pathway, Vietnamese workers can migrate under the TITP through recruitment agencies. Under this programme, migrant workers have to pay recruitment fees and, depending on the recruitment agency and requirements of employers, costs for language and skills training. In addition to the EPA and the TITP, a number of Vietnamese students have also migrated to Japan with the student visa and performed work in the country. In 2019, the Japanese government created the Specified Skilled Workers visa category, which creates its own requirements and recruitment procedures. Professor Asato concluded that the complex system in Japan is difficult for migrants to understand:



Only migration specialists or recruitment agencies would be able to understand the operations of Japan's migration system. In the absence of comprehensive information about different migration schemes, migrants are not likely to understand the system.

While there are concerns about Vietnamese workers leaving their work without properly terminating their contracts, Professor Asato believed that workers who do so are, in essence, changing jobs—a right that Japanese nationals are entitled to but not workers under the TITP. A number of reasons can cause migrant workers to leave their jobs, including rights violations in the workplace. According to a recent report published by the Japanese government, 70% of employers in Japan engage in rights violating practices. Small and medium enterprises in financial difficulties are more likely to commit these violations.

Another possible cause for migrant workers to leave their work without properly terminating their contracts is the high costs involved in the recruitment process. On average, this group of migrants paid 800,000 Yen (7,527-7,528 USD) in migration fees and 60% of them paid more than one million Yen (9,410 USD). These figures exceed the maximum 3,600 USD that recruitment agencies in Vietnam are allowed to charge to prospective workers migrating under the TITP. Once migrants arrive in Japan, wage levels remain low. While a law on the TITP requires employers to pay migrant workers a wage equal to or higher than Japanese nationals who are engaged in similar work,¹⁹ weak

¹⁹ Under the TITP, "Implementing Organisations" conduct the technical intern training. "Supervising Organisations" are non-profit organizations such as business cooperatives and societies of commerce and industry, which monitor their affiliated "Implementing Organisations" to ensure that migrant workers receive sufficient protection at their work sites. For more information on the structure of the TITP, please visit <https://www.iitco.or.jp/en/regulation/index.html>.

implementation of the law can result in a situation where migrant workers are trapped between high recruitment fees and low wages in Japan. To compensate for high migration costs or pay off debt accrued in the recruitment process, some migrant workers choose to leave their work without properly terminating their contracts, in search of better employment opportunities.



▼ Professor Wako Asato

Regarding the recently created SSW scheme, Professor Asato observed that the Japanese government adopted a more rights-based approach in developing the scheme. Under the new migration pathway, employers may directly hire migrant workers from countries of origin, which lowers the chance of prospective workers using unscrupulous intermediaries in the migration process. As part of the migration requirement, migrant workers must also pass a computer-based Japanese language examination in countries of origin. Setting up such an examination creates possibilities for migrant workers to learn Japanese and apply to sit the test on their own without needing to pay for language courses or use services provided by intermediaries. Unlike those migrating under the TITP, migrant workers under the SSW also have the freedom to change employers within the same field after they start working in Japan.

Despite the more progressive outlook of the SSW scheme, Professor Asato foresees that implementation of the scheme's different components will be difficult. Under the MoC on the SSW between Japan and Vietnam, Vietnamese workers have to migrate using recruitment agencies, thereby excluding the possibilities of direct hiring by employers. In addition, some employers, especially those in rural parts of Japan, might be hesitant to recruit workers through the new scheme out of a fear that workers would switch to higher-paying jobs in the cities. As his final point, Professor Asato noted that the lack of mechanisms by the Japanese government to regulate recruitment fees will lead to high migration costs for migrants under the SSW.

Open Forum

A representative of an inter-governmental organisation asked whether there are any efforts by employers in Japan to coordinate with the government to address recurring issues, such as high recruitment fees in countries of origin resulting in migrants leaving their work without properly terminating their contracts. Professor Asato shared that many employers in Japan are still not aware of the different recruitment practices across countries of origin. In particular, employers are confused by the different prescribed levels of recruitment fees across countries of origin. Stronger information dissemination among employers could improve their knowledge of recruitment procedures. A representative of the Embassy of Japan in Vietnam agreed that employers should be informed about the correlations between high recruitment fees and migrant workers leaving their work without properly terminating their contracts.



▲ A representative from DOLAB



▲ A representative from the Japanese Embassy

A representative of a recruitment agency asked about the roles of the Vietnamese government in facilitating migration from Vietnam to Japan under the SSW. A representative of DOLAB in Vietnam responded that MOLISA is the main government agency overseeing the migration process. MOLISA approves recruitment agencies to send workers to Japan, based on a set of approving standards, and shares information on approved recruitment agencies with the Embassy of Japan in Vietnam. MOLISA is also developing guidelines that will outline details for the implementation of migration processes from Vietnam to Japan through the SSW migration pathway.

A question was then raised about the reason why the Philippines was able to successfully adopt the zero recruitment fee model, in which all recruitment fees are charged to employers rather than Filipino workers migrating under the TITP. Professor Asato explained that while the adoption of the zero recruitment fee model has been successful in the Philippines, employers in Japan tend to turn to other countries of origin

where such a model has not been adopted to recruit workers at a lower cost. To address this situation, Professor Asato suggested multilateral cooperation among countries of origin. He remarked:

“ All countries of origin sending workers to Japan should come together to establish a set of common recruitment standards to avoid a “race to the bottom.

A representative of a recruitment agency asked a final question about the requirements for current Vietnamese students to switch to the SSW visa category. A representative of the Embassy of Japan explained that students in Japan are required to have studied in Japan for two years in any course or degree before qualifying for the SSW visa. On top of that, they have to be 18 years old or above and be able-bodied to work in Japan.



▲ A representative from a recruitment agency

Activity

Identifying Opportunities and Challenges from Different Perspectives



▲ *Participants at a discussion*

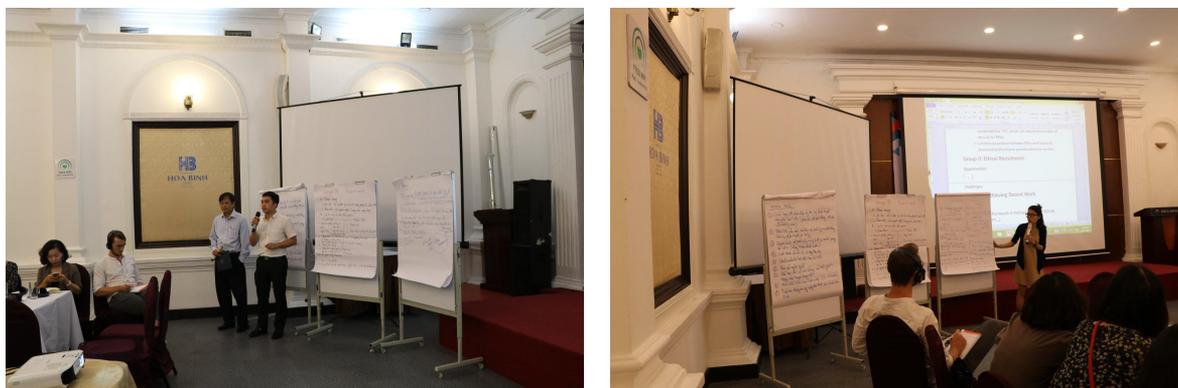
Participants broke into groups consisting of a cross-section of representatives from government, civil society organisations, and recruitment agencies. Each group discussed the opportunities and challenges involved in the migration of workers from Vietnam to Japan, specifically regarding human resources development, ethical recruitment, and achieving decent work.

Participants agreed that the migration of workers from Vietnam to Japan presents plenty of opportunities to **develop human resources** in Vietnam. Vietnamese workers in Japan gain international exposure and learn about Japanese culture and lifestyle. Migrants can also improve their Japanese skills and return to Vietnam to work in Japanese-owned businesses or language schools. However, representatives of recruitment agencies are concerned that the requirements of high-level skills and language may deter workers from migrating to Japan. Inadequate training at the pre-departure stage can also contribute to a mismatch between migrants' skills and the set or level of skills required for their job. As a result, migrants may find it difficult to adapt to life in Japan or perform well at assigned tasks. With the establishment of the SSW migration pathway, Japan is able to retain migrant workers who have completed the TITP and acquired a certain level of skills. In the long run, this can lead to a brain drain from Vietnam.



▲ *A representative of a recruitment agency presents the result of the small group discussion*

A number of factors facilitate **ethical recruitment practices**, including sound government policies to outline and clarify recruitment procedures. Prospective workers can also better understand their rights and recruitment processes if recruitment agencies and employers disseminate accurate and useful information through different channels such as



▲ *Presentations of the small group discussions*

Facebook or other forms of social media. However, ethical recruitment can be hindered by a lack of common understanding among different stakeholders of what “ethical” means and entails, leading to varying recruitment standards. Furthermore, the continued presence of intermediaries at different stages of the migration cycle increases the likelihood of prospective migrants encountering unscrupulous recruitment practices. Intermediaries, such as brokers, may provide inadequate, false or misleading information to migrant workers, which can create gaps between workers’ expected and actual conditions in Japan. Brokers may also charge additional fees to workers and add to workers’ migration costs beyond what recruitment agencies are legally allowed to charge. In addition to intermediaries, differences in the regulatory frameworks of Vietnam and Japan mean that migrant workers may experience difficulties holding recruitment agencies accountable for dishonest acts when they are abroad or pursuing justice for any violations in Japan after returning to Vietnam.

Proper recruitment practices and honest employers are among some of the most important factors enabling **decent work** for Vietnamese workers in Japan. In recent years, the Vietnamese government and other non-government industry groups such as VAMAS have improved mechanisms to monitor recruitment agencies to ensure workers are treated fairly, beginning from the pre-departure stage of their migration cycle. In Japan, too, the new law on the TITP in 2017 created the Organization for Technical Internship Training, which is responsible for inspecting workplaces and ensuring working conditions are decent and safe. In recent years, improved pre-departure training provided to prospective migrants also allows workers to better understand their rights and entitlements at work. However, participants noted that recurring violations at worksites in Japan continue to prevent workers from enjoying decent working conditions. Representatives of recruitment agencies also revealed that many Supervising Organisations in Japan are not providing adequate support to workers when they are in need of assistance. Finally, high migration costs can obstruct decent work. Migrant workers who have taken out loans to afford the high costs are more likely to endure abuse and exploitation at work in order to complete their contracts and pay off debts.

Open Forum

Questions were raised about how recruitment agencies support migrant returnees, including assisting them with withdrawing a lump sum amount of their contributions to the pension scheme in Japan²⁰ or finding jobs for them through which they can utilise skills they have acquired in Japan. A representative of a recruitment agency explained that recruitment agencies have the obligation to help migrant returnees obtain the lump sum they contributed to the pension, but recruitment agencies usually only support those who reached out for help. With regards to supporting migrant returnees find jobs in Vietnam, a representative from another agency revealed that her agency has hired those who have demonstrated a high level of Japanese skills to teach prospective migrants at training centres.

Professor Asato asked whether intermediaries are legally permitted to participate in the migration process and, if so, whether their roles have been clarified under the laws of Vietnam. A representative from ILO explained that Law on Vietnamese Workers Working Abroad Under Contract (No. 72/2006/QH11) requires recruitment agencies licensed by the Vietnamese government to directly recruit workers. However, she admitted that recruitment agencies are often not resourceful enough to reach out to prospective workers from different parts of the country and continue to rely on intermediaries to recruit workers. The involvement of intermediaries complicates migration processes and makes regulation of different actors difficult.

²⁰ In Japan, migrant workers are required to pay into the Employees' Pension Insurance or the National Pension. Those who have paid at least six months and have returned to their home country without fulfilling the qualification period to receive a pension are entitled to receive a lump sum withdrawal payment. (The Organization of Technical Intern Training, "Technical Intern Trainee Handbook", p.50, accessible at <https://www.otit.go.jp/files/user/181003-eng.pdf>).

Recommendations

Improving Migration Mechanisms

1. Strengthen the role of relevant ministries in Vietnam in monitoring and regulating recruitment practices;
2. Clarify the roles of government authorities, Supervising Organisations and employers in Japan and recruitment agencies in Vietnam in protecting migrants' rights;

Improving Information Dissemination

3. Improve the quality of pre-departure and post-arrival training to better prepare prospective migrants for life in Japan;
4. Provide clear and accurate information to migrant workers during the entire migration cycle, including their rights and salary deductions;

Enhancing International Cooperation

5. Enhance cooperation between various stakeholders in Vietnam and Japan;
6. Strengthen cooperation among countries of origin in setting higher standards for recruitment and avoiding a race to the bottom; and

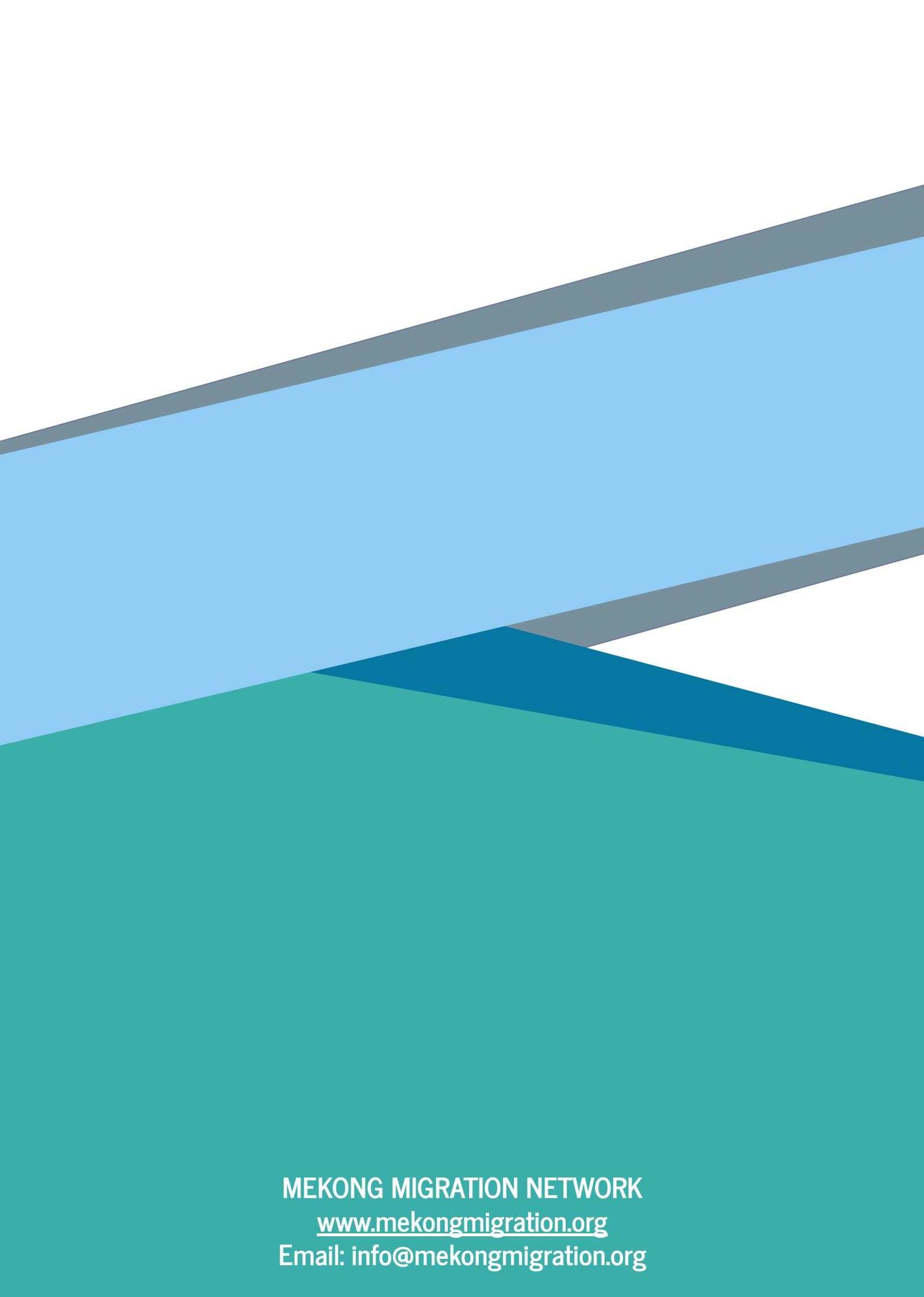
Expanding Support for Returning Migrants.

7. Facilitate employment of migrant returnees to enhance their skills.

Conclusion

During the consultation meeting, participants heard from representatives of different stakeholders to understand the opportunities and challenges involved in the migration of workers from Vietnam to Japan. Participants generally acknowledged that workers can benefit from migrating to Japan, given that they are well-protected throughout the migration cycle. Some participants also noted that the newly created SSW scheme includes several components that carry potential to improve migrant workers' conditions in Japan, such as the freedom for workers to change jobs in Japan. However, recurring issues associated with migration to Japan remain causes of concern. Among them, prospective migrants continue to pay high fees that are required to secure employment in Japan or imposed during the recruitment process. These fees are often beyond the prescribed rate of 3,600 USD. Currently, there are successful examples of countries, such as the Philippines, adopting the zero recruitment fee model to alleviate the financial burden on workers migrating under the TITP. However, without other countries also employing a similar model and collectively setting standards for recruitment practices, a "race to the bottom" scenario could arise. Another concern is the continued presence of intermediaries who act illegally in the migration process to cheat and exploit prospective migrants. The presence of different kinds of intermediaries at varying stages of the migration cycle can complicate recruitment processes and makes regulation of their activities difficult. In addition, violations at work places in Japan remain common. Many migrant workers endure situations of abuse and exploitation because the TITP does not allow migrants to change employers. There are also cases where migrants choose to stay at their jobs in spite of poor conditions to finish paying off debts they have accrued in the recruitment process.

The consultation ended with participants exploring strategies to improve migrants' experience throughout their migration cycle. Many participants agreed that having dialogue among different stakeholders is key to addressing challenges and concerns in the migration of workers to Japan, and expressed an interest in furthering the discussion.



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