

THE FIVE CORRIDORS PROJECT - CORRIDOR 4

Philippines to Taiwan: Fair recruitment in review

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ABOUT THIS DOCUMENT

The Five Corridors Project is an initiative led by FairSquare Projects, which aims to identify key measures that governments can take to ensure that migrant workers can migrate safely and with dignity. FairSquare Projects is a non-profit human rights organisation that tailors rigorous research with communication and advocacy work to promote systemic change. The Five Corridors Project is supported by Open Society Foundations and Humanity United. The organisations that funded this project played no role in the design or execution of the research, and our conclusions and recommendations may not necessarily reflect the viewpoints of Humanity United or OSF.

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Cover photograph: Migrant workers calling for reforms to Taiwan's recruitment and employment system, Taipei 2017. © NurPhoto / Getty Images

Overview

An **overview** of fair recruitment in the Philippines-Taiwan labour migration corridor

The archipelago of the Philippines and the island state of Taiwan both straddle the South China Sea and the Pacific Ocean, and there is a steady flow of migration from the Philippines to its wealthier neighbour to the north.

Taiwan's use of foreign labour to address labor shortages and the societal impact of an ageing and increasingly prosperous population began in the late 1980s and more than 700,000 workers from Thailand, Philippines, Indonesia, Vietnam are currently employed there, out of a Taiwanese labor force of 12 million. The Philippines accounts for 150,000 of Taiwan's foreign workforce. The vast majority work either in manufacturing, which accounts for approximately 60% of its foreign workforce,

and domestic work and caregiving, which collectively account for 36%.¹ In addition, some 20,000 foreign workers are employed in Taiwan's distant water fishing sector. These workers do not live or work in Taiwan (and have no permission to do so) but rather on Taiwanese-registered ships that operate in international waters.

Mass migration from the Philippines began in earnest in the 1970s when it positioned itself as one of the primary suppliers of labour to the oil-rich Arab Gulf states. In 2019 it had an overseas foreign workforce of 2.2 million, with more than half of its workers employed in the Middle East. The money that Filipino workers send home in remittances (US \$30.1 billion in 2019) accounts for 9% of the country's GDP.

1. As Taiwanese academic Pei Chia-Lian notes, "the distinction between the categories of 'caretaker' and 'domestic helper' is ambiguous' and she uses the term 'domestic worker'. See Pei Chia-Lian, "Global Cinderellas: Migrant Domesticity and Newly Rich Employers in Taiwan," (Duke University Press, 2006), p.8. Taiwan's Ministry of Labour records state that as of the end of December 2019, there were 718,058 foreign workers in Taiwan. These workers are heavily concentrated in two main economic sectors - manufacturing (61% of foreign workers) and caregiving (36%) with smaller numbers in construction (1.6%), agriculture, forestry, fishery and animal husbandry (1.7%) and domestic service (0.25%). Taiwan Ministry of Labor, "On Protection of the Rights for Foreign Workers in Taiwan," (January, 2020), p. 1.

In the same way as the Philippines economy is heavily reliant on remittances from its emigrants, so Taiwan's high-income economy relies on immigrants to support its vital manufacturing sector, including its resource-intensive electronics sector.

This economic interdependence can yield significant benefits for the Filipino migrant workers recruited to work in Taiwan. The Philippines is frequently held up as the origin state that does more than any other to protect its overseas workers, and Taiwan has earned a reputation as a progressive, rights-respecting state. Both countries have robust legal and regulatory frameworks to manage the recruitment and employment of foreign workers, and when these systems function as they have been designed, the positive outcomes for workers are evident.

One Filipino migrant worker we spoke to, for example, told us that she had bought a rice mill and a shop in the Philippines with the money she had earned working in Taiwanese factories. Positive worker outcomes are most likely in Taiwan's electronics sector, where image-sensitive international companies adhere to codes of conduct, which include the 'employer pays' principle on recruitment fees, and which also apply to their suppliers.

However, many workers and numerous experts interviewed for this project described exploitative or illegal working conditions, and some - particularly those in the country's distant water fishing sector - spoke of abuses that indicate serious gaps in protection for foreign workers. "There are captains who turn into devils when they don't get what they want," one Filipino fisherman told us. In September 2020, the US Department of Labor added Taiwan's distant water fishing sector to its list of goods produced by forced labor for the first time. The report pointedly notes the prominent role of Taiwanese recruitment agents in what it described as "numerous incidents of forced labor ... reported on Taiwan-flagged fishing vessels." One 39-year old domestic worker told us how overwork and verbal abuse led her to consider jumping out of a window to escape from her Taiwanese employers. She was able to transfer employers but she still spends most of her salary repaying debts, including the 100,000 Pesos (US \$2,085) she paid to get her job in Taiwan.

Domestic workers constitute nearly 50% of Filipino workers overseas and it is their mistreatment abroad that has arguably shaped the protective dimensions of Philippines migration policy in relation to placement fees, standard employment contracts and bilateral labour agreements. However, our research indicates that, as is the case in other countries, domestic workers are particularly vulnerable to abuse in Taiwan. One of the gendered aspects of migration is that women are more likely to work in their employers' homes, where they are more vulnerable to abuses. The abuses may not be as widespread or as severe as in the Gulf states of the Middle East, but they are a matter of serious concern, and can partly be attributed to the fact that they are not covered by Taiwan's Labour Law. This failure to provide the most fundamental legal protections to domestic workers is emblematic of the problems that remain in this migration corridor.

The Philippines and Taiwan perform creditably in many of the key areas relating to fair recruitment. The Philippines has deployed significant resources and has implemented an impressive domestic and overseas bureaucracy to protect its overseas workers, and Taiwan for its part has laws and mechanisms that can be effective in extricating workers from abuse and exploitation, and has taken steps to ensure that migrant workers can change employers. Yet many thousands of workers are still falling through regulatory cracks and enduring serious abuses as a result.

Almost all of the workers we spoke to in the course of this project had paid significant sums of money to secure jobs in Taiwan, with the exception being electronics workers employed by firms following strict "employer pays" recruitment fee policies. Every year, the recruitment sector in Taiwan earns approximately US \$484 million in fully legal monthly service fees from its foreign workers, but many of these recruitment agents appear to primarily serve the interests of Taiwanese employers, to the detriment of the foreign workers whom they are also supposed to represent.

The following addresses the key recruitment-related issues driving positive and negative worker outcomes for Filipino workers in Taiwan.

Market dominated by private recruitment agents

The overwhelming majority of the deployment of workers out of the Philippines and of the foreign employment into Taiwan is handled by government licensed private sector recruitment agents. There has been no significant commitment by either government to models that enable employers to avoid the use of recruitment agents on one or both ends of the migration corridor.

The Taiwanese government has enabled employers to recruit foreign workers directly since 2007 with the aim of providing “multiple channels to hire foreigners” but Taiwanese government data shows that the number of workers recruited via its direct hire system, which cuts out Taiwanese recruitment agents, accounted for only 2.6% of foreign workers in Taiwan in 2019, and the rate of direct hires has been declining since 2016. Since 1999, a Special Hiring Program for Taiwan (SHPT) has enabled Taiwanese employers to hire Filipino workers without having to use a Filipino recruitment agency, but fewer than 1% of the total number of Filipino workers recruited into Taiwan have been hired through the SHPT since the start of 2015. Likewise, the Philippines has a government agency that has authority to directly recruit Filipino workers for deployment overseas (the Philippines Overseas Employment Agency), but the proportion of workers it deploys overseas is insignificant. Whereas Taiwan pays slightly more than lip service to its direct hiring process, the Philippines’ explicitly recognises “the significant contribution of recruitment and manning agencies” as “partners of the state in the protection of Filipino migrant workers and the promotion of their welfare” in the preamble to its key piece of legislation on the regulation and protection of its overseas workers. The reality is that both states delegate power and authority to facilitate recruitment to their private sectors, and both use licensing systems to determine who can operate and how they operate, with a view to ensuring workers’ rights are protected in the recruitment process.

The ILO has described the Philippines as having “the most well developed apparatus on labour migration in Asia” and there is consensus among a wide range of stakeholders that the Philippines has a particularly

impressive legal and regulatory framework. The Philippines Overseas Employment Agency (POEA) licenses and regulates recruitment agencies, and it is also responsible for promoting overseas deployment of Filipino workers, and overseeing domestic anti-illegal recruitment initiatives. The POEA also generates significant amounts of revenue for the state from application and license fees, and fines and penalties. The Philippines has detailed guidelines to regulate the recruitment of both land-based workers and seafarers, and these guidelines cover all stages of the recruitment process in detail, and minimum employment standards that are implemented via POEA standard employment contracts. The guidelines include details of who can (and cannot) obtain a license to recruit for overseas work, as well as stringent financial requirements designed to ensure the financial probity of the sector. An innovative dimension of the Philippines’ licensing system is its accreditation of foreign recruitment agents and employers. The Philippines has no jurisdiction over these entities, but (on paper at least) it exercises a degree of extraterritorial control over them by only permitting the Philippines-based agencies it licenses to do business with foreign entities whom it has accredited.

Taiwan also has parallel sets of laws and regulations; one that covers the recruitment and employment of foreign workers in its manufacturing, domestic work and its domestic fisheries sector, overseen by Taiwan’s Ministry of Labour, and a separate and quite different set of laws and regulations for its distant water fishing sector, overseen by its Fisheries Agency. The Ministry of Labour provides operational permits to private employment service institutions - the agencies that recruit foreign workers into manufacturing, domestic work, or its domestic fisheries sector (as distinct from its Distant Water Fishing sector). The Fisheries Agencies authorizes entities to act as recruitment agents for the distant water fisheries sector. Both systems are managed via detailed regulations on the issuance of these licenses to recruit, the imposition of fines, and the suspension or cancellation of permits and authorizations.

There is no reason why the use of private recruitment agencies cannot result in positive outcomes for the workers whom they recruit for employment. The Philippines approach to enforcement appears to have been effective in limiting the role of unlicensed agents, for example, and in contrast to many other

origin states (including the three other origin states in this study), the Philippines does not appear to have a significant problem with unlicensed sub-agents. We have not been able to secure data from the POEA to explain or fully substantiate this claim, but none of the stakeholders we consulted described sub-agents as a significant problem and all of the workers we spoke to (other than those hired directly through the POEA) used the services of registered agents. The reduction in the number of sub-agents is a significant achievement and owes much to the strong licensing system allied to targeted inter-agency campaigns that have made use of strong laws on illegal recruitment, and national information campaigns targeted at the regions from where the majority of Filipino overseas workers hail. The Philippines has demonstrated that it is possible to effectively target resources to effectively mitigate issues in the recruitment process that leaves migrant workers vulnerable to abuses abroad. Former government officials and experts from intergovernmental bodies both highlighted a lack of inspection and oversight capacity as a problem, albeit one that is less pronounced in the Philippines than in other origin states. However, the problems in recruitment in both the Philippines and Taiwan go beyond the issue of resources and in many respects are rooted in deeper structural problems: both states have undermined their efforts to protect recruited workers by permitting their respective recruitment sectors to charge workers - rather than employers - fees for their services, and by failing to provide incentives to ethical actors to enter the market.

Recruitment Fees and other Disincentives to Fair Recruitment

Recruitment agents in the Philippines are prohibited from charging placement fees for their services to domestic workers, seafarers and workers going to countries that themselves prohibit placement fees. For other classes of workers, they may charge workers a placement fee equivalent to one month's salary. Taiwan prohibits its recruitment agents from charging migrant workers placement fees, but they are allowed to charge migrant workers monthly service fees for the duration of a foreign workers' stay in the country - US \$2,025 every three years. On average, Filipino workers pay US \$675 per year to Taiwanese recruitment agents. With 157,487

Filipino workers in Taiwan this accounts to US \$106 million in service fees annually. (By way of comparison Filipino workers in Taiwan sent home US \$597 million in remittances in 2019.)

In reality recruitment agents in the Philippines and Taiwan are able to make many workers pay the costs of their recruitment, and in some cases, far more than the costs of recruitment. The Philippines recruitment sector is quite open about its desire to continue charging workers' placement fees, and agencies continue to use loopholes in the law to pass recruitment costs onto workers, by over-charging workers for mandatory training, medical and accommodation costs, or working in tandem with lending agencies who charge high-rates of interest on loans. Experts say that the prohibition on domestic workers paying placement fees has had little to no effect - domestic workers pay as much in fees as other categories of workers and it is telling that that the country's handful of ethical recruiters do not deploy domestic workers despite it being the sector where they are not - on paper at least - at a comparative disadvantage. Workers for their part regard the payment of fees as standard practice and the authorities allow the practice to go on unchecked, apparently content that there is no widespread violation of the letter of the law.

By 2015 Taiwan had gained such notoriety for high recruitment fees that NGOs arranged a meeting with representatives of the country's recruitment sector and secured a commitment from them to address the issue. However, civil society groups in Taiwan and the Philippines told us that there have been minimal improvements since then and Taiwanese recruitment agents told us that many Taiwanese employers continue to ask for kickback payments from recruitment agents, and that some Taiwanese recruitment agencies demand fees from other recruitment agencies when workers transfer from one agency to another. "All of the expenses will inevitably be shouldered by migrant workers", one NGO director told us. Greenpeace told us that the fees charged to workers in the distant water fishing sector were so high that many foreign fishermen spent between 6 and 8 months repaying debts before they could earn. The Taiwan International Workers Association credited the Philippines' laws and regulations with keeping fees lower for Filipinos than those paid by workers from Vietnam, Indonesia and Thailand, but it is clear that many workers continue to pay to secure jobs in

Taiwan, and many go into debt to do so. Despite the well-documented link between recruitment debt and workplace abuse and exploitation, the authorities in the Philippines and Taiwan appear to lack the requisite political will to tackle the issue. In November 2020, the government of Taiwan issued a stern public response to public demands from the Indonesian government that Taiwanese employers meet the costs of recruiting Indonesian workers, stating that Taiwan would consider hiring workers elsewhere. Taiwan said that the issue should have been discussed within the private confines of a Taiwan-Indonesia Labor Conference, but it is telling that a relatively uncontroversial demand - that Taiwanese employers who want to recruit foreign workers for low-paid work should pay the costs associated with that process - provoked such a stern response.

Since the ‘employer pays’ principle is the cornerstone of ethical recruitment models, the failure to address the pervasiveness of recruitment fees in this migration corridor serves as the prime disincentive to the entry of ethical actors into the recruitment business. However, it is not the only way in which ethical actors are at a distinct comparative disadvantage.

The POEA introduced what it now describes as a “hard-to-enter, easy-to-go” policy to the Philippines in 2002, with the aim being to make it difficult for new entrants to get into the sector, and easy for the POEA to strip the licenses from violators of the regulations. The policy appears to have had the effect of blocking new, ethical actors from entry. The director of the ILO’s FAIR project in the Philippines, told us that the POEA Rules and Regulations had had the effect of disincentivizing ethical recruitment, with reference to the regulation that requires new recruitment agents to have identified new markets and received job orders prior to the issue of their license. The ILO’s 2017 Working Paper on the Philippines’ recruitment sector noted that this “creates a “catch-22” situation where prospective agencies have to develop a market for Filipino workers as non-licensees” and that it arguably placed prospective agents in the position of having to recruit illegally, as the term is understood in Philippines law. The result is that prospective new agents are encouraged to buy pre-existing licenses, circumventing the entry requirements altogether. A further disincentive to ethical recruitment is the volume-driven business model that the POEA

encourages through its annual performance awards which are weighted heavily in favour of deployment and reduces the administrative burden (and associated oversight) of agencies that deploy large numbers of workers abroad. Ethical recruitment agencies in the Philippines told us that they generally avoid recruitment for the domestic work sector, despite it accounting for more than 50% of the entire overseas recruitment and the ban on placement fees, which on paper at least levels the playing field for a no-fees recruiter.

Taiwan also performs poorly in relation to its incentivization of ethical recruitment despite having instituted an innovative ranking scheme for its recruitment agencies whereby the Ministry of Labour (and the Fisheries Agency for the distant water fishing sector) gives licensed agents rankings of A, B or C, and publishes the rankings on its website. However, Taiwanese recruitment agents told us that the system is largely based on the provision of documentation and civil society groups agreed that the system as it is currently constituted does not provide useful information on the performance of Taiwanese recruitment agencies with regard to workers’ rights. It is notable that ethical recruitment practices - where they exist in Taiwan - appear to be rooted in the efforts of private sector initiatives such as the Responsible Business Alliance, or the high standards, and associated auditing, demanded by individual companies with rights-sensitive customer bases.

Grievance Mechanisms

As noted above, there is a high probability that a Filipino migrant worker in Taiwan will have paid a considerable sum of money to a recruitment agent in the Philippines, and that they will also be paying Taiwanese agents ongoing monthly service fees. Taiwan also allows its courts to enforce the repayment of loans that Filipino workers take out in the Philippines to secure jobs in Taiwan. The Taiwanese Legal Aid Foundation (TLAF) has represented hundreds of workers who have challenged Taiwanese court orders sought by Taiwanese lending agencies that effectively buy workers debt from Philippines-based lending agencies. The TLAF told us that they have been successful in many cases, arguing that the interest on these loans - which they said can

be up to 50% - is excessive. However, even in successful cases Taiwan's courts do not contest the legitimacy of the original loan, only the interest rates attached to it. The practice of selling workers' debt appears to be limited to Filipino workers in Taiwan, and while it is relatively widespread it is not standard practice. Nonetheless it exemplifies how migrant workers are actually vulnerable to abuse and exploitation in this corridor because of the actions of recruitment agents (and lending agents) operating legally and *within* the terms of their government licenses.

However, this issue also highlights an area where the Taiwanese and the Philippines authorities perform well in relation to many other states - grievance mechanisms and access to remedy.

In 2015, Taiwan amended its Legal Aid Act, which is already open to anyone who is legally resident in Taiwan, to enable free legal assistance to be provided to workers who are undocumented. The amendment notes that individuals who "lost their residency due to incidents not imputed to themselves" can avail of legal aid. The Taiwan Legal Aid Foundation provides legal assistance to between 2,000 and 3,000 foreign workers every year. In 2017, it secured damages totalling NT \$36 million (US \$1.25 million) for 347 Vietnamese domestic workers in a case relating to salary deductions totalling NT \$200 million. The system is not flawless and the TLAF told us that they had lobbied the Judicial Yuan to take steps to ensure that migrant workers' access to justice is not compromised by a failure to take account of their need to be able to communicate effectively (a failing that typically relates to the failure of judges and prosecutors to avail of translation services rather than a failure to provide those services). Nonetheless, Taiwan provides migrant workers, including some undocumented workers, with access to justice and remedy. The role of the Philippines' overseas bureaucracy has also played a notably positive role in relation to access to remedy. While some civil society organisations have criticised the performance of diplomatic missions, the Philippines' capacity to provide assistance and support to aggrieved workers abroad is nevertheless significantly greater than most other origin states. The Philippines has a raft of ministries and agencies involved in the protection of its overseas workers, and these are spearheaded by Philippines Overseas Labour Offices. There are 34 of these around the world - 11 in Asia, 13 in the Middle east,

7 in Europe and 3 in the Americas. The offices are headed by a Labor Attaché and include representatives from the Department of Foreign Affairs and the Overseas Worker Welfare Administration. In Taiwan, Filipino workers can also avail of the quasi-governmental Manila Economic and Cultural Office (MECO) which works closely with POLO offices in Taiwan and MECO has worked in close coordination with the Taiwanese Legal Aid Foundation to ensure that Filipino workers have been able to access judicial remedies. A former Philippines government official, who worked overseas in migrant worker protection and who was generally critical of the authorities' performance on worker protection, told us that in his experience, any failings at an operations level within its overseas bureaucracy did not relate to any lack of commitment to worker protection.

Taiwan also performs notably well in relation to ensuring that workers whose contractual rights have been violated can change jobs, using a non-judicial grievance mechanism - a workers' hotline - to trigger the process that allows workers to legally find new employment in Taiwan.

Taiwan's Ministry of Labour set up its 1955 Hotline - a 24-hour "consultation and protection hotline" for foreign workers - in 2009. Civil society groups in Taiwan retain some concerns about its effectiveness, but generally concur with the views of senior officials from Taiwan and the Philippines that the hotline has opened up a direct line between foreign workers and the Taiwanese authorities, and that this has been beneficial in relation to workers' access to remedy and their ability to change employers. From the beginning of 2015 until the end of June 2020, the hotline received a total of 133,111 complaints about a range of issues, including problems with salaries and contracts. When the 1955 hotline receives complaints, they designate the case to the municipal Labour Bureau who will notify the employer and the recruitment agent and ask them to negotiate with the employee. Calls to the hotline can also result in cases being reported to criminal investigating authorities - 42 possible trafficking cases were reported to investigators between 2015 and 2020 as a result of calls made to the hotline.

Numerous workers we spoke to told us that the 1955 Hotline had enabled them to report problems to the authorities, the result of which was their being granted

the right to transfer employers. It is not possible to determine what proportion of calls to the hotline result in positive outcomes for workers, but sufficient evidence exists to suggest that a properly formulated complaint often results in the authorities taking action to extricate the foreign worker from exploitative or abusive employment situations. We were unable to secure any data from the Taiwanese authorities to show that they impose meaningful criminal or administrative sanctions on either the Taiwanese employers or the recruitment agents responsible, but they can get workers out of those situations and into shelters where they can seek alternative employment.

The relative success of the 1955 Hotline should also be set in the context of the fact that one of the positive aspects of its set up is its bypassing of Taiwanese recruitment agents, who are supposed to act as intermediaries between employers and their foreign workers, but who too often in reality obstruct migrant workers' efforts to seek remedy or change employers in the case of abusive working conditions or contractual violations.

Job Mobility

Taiwan appears to allow some degree of job mobility for its migrant workforce in practice, but workers' rights to change employers remain restricted by a tied visa system. Since 2008, migrant workers have had the right to change employers before the end of their contracts, with the agreement of the worker, and the current and prospective new employer. The government stated that this reform was intended "to secure [the] occupational interests of the foreign laborers" and to "enable the employers in need of manpower supplies to gain immediate support", which indicates that the Taiwanese government regards it as economically beneficial to provide its foreign workers with some degree of job mobility. As the Ministry of Labour put it, they have a "prohibition in principle, approval under exception" policy. According to data provided to us by the Ministry of Labour, between the start of 2015 and the end of June 2020, there were a total of 459,017 applications to change employers and 427,326 of these applications

were successful. This corresponds to an approximate annual average of 78,000 migrants changing employers every year, about 10% of the migrant workers in the country, and an overall successful application rate of 93%. One Taiwanese recruitment agent, which has deployed nearly 20,000 migrant workers in Taiwan's manufacturing sector, told us that migrant workers were able to make successful appeals for job transfers in the middle of their contracts, and used this to negotiate better terms and conditions. She also told us that resignation rates had increased in recent years, and that workers who came in on "no-fee" policies, such as those in some companies in the electronics sector were more likely to resign. This was expressed as a complaint, but laws that restrict employers' powers often uphold workers' rights, as is the case here.

Several NGOs told us that while workers have the right to change jobs in the cases of abuses, in practice recruitment agents often prevent workers who have complained from finding new employers. In an illustrative example of the problem, one Filipino worker who had been employed in Taiwan's electronics sector told us that it had taken him and his colleagues two years to figure out how to gather the evidence they needed and make a complaint. They had complained as a group about inadequate housing and contractual violations including illegal salary deductions, and he told us that their recruitment agent had repeatedly attempted to block their efforts to complain saying that their treatment was normal and taking the side of the employer in negotiations.

Nonetheless, it is apparent that migrant workers who end up in abusive working conditions are in many cases able to change jobs in Taiwan. Taiwan's grievance mechanisms play a positive role in that process, but this only serves to highlight the problems associated with tied visa schemes. Taiwan's enforcement of its tied visa scheme appears to be fairly lax in practice, which has created a situation of de facto job mobility, but too many workers are still trapped in abusive and exploitative situations because people often have to complain in order to change employers, and not all workers are willing to take that risk.

Priority recommendations to strengthen efforts to ensure fair recruitment.

The Philippine authorities should:

- **Ratify the ILO Private Employment Convention** and in keeping with its requirement that workers should not pay recruitment fees, amend the Republic Act 10022 to bring Philippine law in line with the ‘employer pays’ principle and in such a way that it is consistent with the ILO’s definition of recruitment fees and related costs.
- **Institute an ethical recruitment framework** into the licensing and regulatory machinery of the Department of Labor and the POEA, such that prospective or existing recruitment agencies need to demonstrate compliance with ethical recruitment principles, and for this compliance to be verified and audited by an independent third-party; consider the introduction of incentives for agencies who can genuinely demonstrate due diligence, commitment to zero-fee recruitment and a duty of care for migrant workers.
- **Set up an inspectorate or task force**, similar to the Task Force Against Illegal Recruitment, that is independent of the Department of Labour and Employment. The inspectorate should have a mandate to accept and investigate complaints and to proactively inspect licensed recruitment agents for all forms of illegal recruitment as outlined in Section 5 of the Republic Act 10022.
- **Conduct an independent policy review** of the Single Entry Approach to assess the effectiveness of mediation and conciliation in providing overseas foreign workers with their right to effective remedy. This review should specifically address the question of whether mediation is, in practice, an obstacle to effective remedy.

The Taiwanese authorities should:

- **Amend legislation** to ensure that all foreign workers in Taiwan, including domestic workers, enjoy the protection of the Labour Standards Act.
- **Bring the Distant Water Fishing sector** under the regulatory authority of the Ministry of Labour and ensure that all workers in that sector enjoy fundamental rights and protections comparable to foreign workers employed in other sectors in Taiwan.
- **Institute an ethical recruitment framework** into licensing and regulatory machinery such that prospective or existing recruitment agencies need to demonstrate compliance with ethical recruitment principles, and for this compliance to be verified and audited by an independent third-party; consider the introduction of incentives for agencies who can genuinely demonstrate due diligence, commitment to zero-fee recruitment and a duty of care for migrant workers.
- **Set up an inspectorate or task force** dedicated to the protection of foreign workers that has a mandate to accept and investigate complaints and to conduct random inspections in the sectors in which foreign workers are employed (including the distant water fishing sector), as well as to inspect private employment institutions that recruit foreign workers. Civil society groups and other expert stakeholders should be consulted on the precise mandate of any such inspectorate, which should at a minimum address issues such as recruitment fee payment and contractual issues.
- **Amend the Employment Service Act** and introduce language to the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members to make employers liable for all costs associated with hiring private employment institutions to recruit workers, and to explicitly prohibit the charging of monthly service fees to migrant workers.



Prospective migrant workers study job adverts, Manila. © Cheryl Ravelo / Alamy

Recruitment pathways: How Taiwanese employers hire Filipino workers

This is a brief description and analysis of the dominant model of recruitment in this migration corridor, which involves recruitment agencies on both ends, and a quasi government-to-government recruitment model designed for Taiwan's manufacturers, some of whom also adhere to the "employer pays" principle in relation to recruitment fees.²

Pathway 1: Recruitment agents

This is by far the most dominant model of recruitment in this migration corridor and into Taiwan generally. It likely accounts for more than 95 percent of the recruitment of foreign workers into Taiwan. In this model, a Taiwanese employer uses the services of a licensed recruitment agent - known as private employment institutions - to recruit foreign workers on their behalf, and that Taiwanese agent liaises with a recruitment agency in the Philippines, which then sources the worker and arranges their emigration to Taiwan.

The **process** is as follows. Licensed recruitment agents help Taiwanese employers apply for employment permits for foreign workers from the Taiwanese Ministry of Labour. They submit these employment permits to the Philippines Overseas Labour Office (POLO) along with details of the jobs and the salaries being offered and copies of the employment contracts they intend to offer foreign workers. If everything is in order, the Philippines authorities issue the requisite number of job orders to the Taiwanese recruitment agent.

The Taiwanese agent then takes the accredited job orders to a recruitment agent in the Philippines. The agent in the Philippines posts the job advertisements, vet applicants, and assists successful applicants to obtain the documentation, training, medical examinations, and pre-departure orientations they require to work overseas. When Filipino workers arrive in Taiwan, they maintain a contractual relationship with Taiwanese recruitment agents, to whom they pay a monthly service fee in return for mediation services (when disputes arise with employers, for example) and for assistance with administrative tasks.

2. We have not included a description of the recruitment process for Taiwan's Distant Water Fishing sector on account of its complexity and the myriad ways in which Taiwanese distant water fishing operators can hire workers, as detailed in the body of the report.

The **fee structure** for this model is supposed to work as follows.

- The Taiwanese employers pays the Taiwanese recruitment agent for the services they render, and pays many of the costs associated with the workers' recruitment - return air-fares, transportation from airport to job sites, a POEA processing fee; an OWWA membership fee; and any additional trade test or assessment costs.
- The Filipino worker pays the Philippines recruitment agent a placement fee equal to 1 month's salary (domestic workers and seafarers pay no placement fee in which case the foreign employer ultimately pays this cost), and separately will also pay documentation costs, and medical and training costs.
- The Filipino workers also have to pay monthly service fees to Taiwanese recruitment agents, which amount to over a three-year period.

In reality, many Taiwanese employers refuse to pay the full costs of recruitment or demand kickback payments from Taiwanese recruitment agents. To recoup their running costs and ensure there is a profit margin for every worker they recruit, these fees are passed on to Philippines recruitment agents, who pass them on to workers, often via inflated training and medical costs or usurious interest payments on loans offered by lending agents with links to the recruitment sector. However, this is not always the case. High income companies (often in Taiwan's electronics sector) that adhere to the "employer pays" principle outlined in codes of conduct such as the Responsible Business Alliance are far more likely to pay the full costs of workers' recruitment and commit to reimbursing any fees that workers have assumed in the course of their recruitment.

Pathway 2: The Philippines' special hiring program for Taiwan

This model of recruitment has been available to Taiwanese manufacturers since the Philippines and Taiwan signed a 2001 Memorandum of Understanding that outlined the various roles and responsibilities of the government entities tasked with facilitating the Special Hiring Program for Taiwan. It eliminates Philippines recruitment agents from the recruitment process and can dramatically reduce the fees that workers pay to secure jobs in Taiwan.

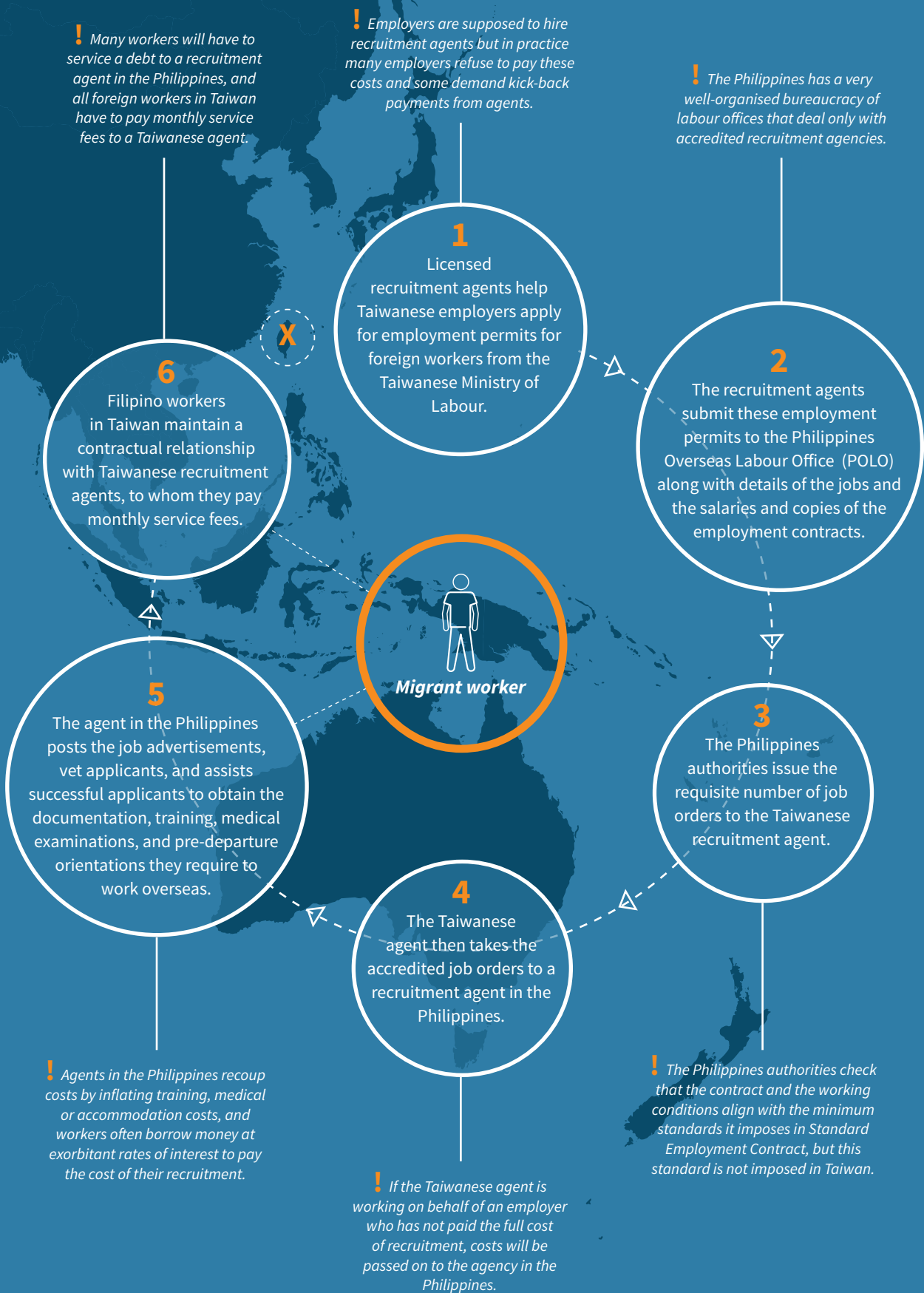
The **process** is as follows. A Taiwanese manufacturer applies to the Taiwanese Ministry of Labour for a permit to hire foreign workers. If the authorities grant the employer a quota of employment permits for foreign workers, the employer then engages directly with the Philippines authorities, who in effect serve as the agents of recruitment. The Manila Economic and Cultural Office (MECO), a quasi-governmental body of the Philippines with offices in Taipei, Kaohsiung, and Taichung assists Taiwanese firms and connects them to the Philippines Overseas Employment Agency (POEA). The POEA advertises positions on its website, and arranges for interviews and exams, as required. The Taiwanese companies send representatives to Manila to conduct interviews at POEA offices. Successful applicants sign a POEA-approved contract with the Taiwanese company, and the Taipei Economic and Cultural Office (TECO) in Manila (a Taiwanese government entity) provides the workers with their working visa. Once in Taiwan, many employers can still require that their foreign workers use the services of Taiwanese recruitment agents, who act as mediators and assist with administrative tasks.

The fee structure for this model works as follows. Workers pay no placement fees, but they typically bear the cost of travel to Manila and their medical and documentation costs, as well as their air-fares to Taiwan. Companies that adhere to "employer pays" principles will refund workers all of these costs upon production of receipts. If the employer is using the services of Taiwanese recruitment agents, the agency will charge workers a monthly service fee. Employers who adhere to "employer pays" principles will bear this cost themselves, meaning the worker effectively pays nothing in recruitment fees to secure his or her job in Taiwan.

This model can have a significant impact on the recruitment fees that Filipino workers pay to get jobs in Taiwan, especially when the companies involved are also strictly adhering to the "employer pays" principle. However, there has been very limited uptake of the SHPT with the overwhelming majority of workers preferring to use private recruitment agencies at both ends of the migration corridor. According to data provided to us by the Taiwanese Ministry of Labour, a total of 1889 Filipino workers - less than 1 percent of the total number of Filipino workers recruited into Taiwan - have been hired through the SHPT since the start of 2015.³

3. Ministry of Labour data provided to FairSquare Projects (26 August 2020).

A simplified impression of a typical recruitment process for a Filipino worker employed in Taiwan



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