



International
Labour
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Fair
Recruitment
Initiative

- ▶ Compendium of promising practices to advance fair recruitment of (migrant) workers



5 years of the Fair
Recruitment Initiative

► Compendium of Promising Practices to Advance Fair Recruitment of (migrant) workers

Fair Recruitment Initiative

MIGRANT and FUNDAMENTALS Departments
International Labour Organization

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Compendium of promising practices to advance fair recruitment of (migrant) workers: 5 years of the Fair Recruitment Initiative

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▶ Contents

▶ Acronyms	7
▶ Introduction to the Compendium of Promising Practices on Fair Recruitment	9
▶ Section 1: Improving Laws, Policies and Enforcement	11
Introduction	11
A. Law amendment concerning management of migrant workers in Thailand	12
Proof of impact/progress	12
Other promising features	12
B. Viet Nam - Revision of the Law on Contract-Based Overseas Workers	13
Proof of impact/progress	13
Other promising features	14
C. Italian National Action Plan to tackle labour exploitation, unlawful recruitment and forced labour in agriculture	14
Proof of impact/progress	14
Other promising features	15
D. Nepal - Bilateral Labour Agreements include provisions related to fair recruitment	15
Proof of impact/progress	16
Other promising features	16
E. Bangladesh – Government capacity enhanced to promote fair recruitment in bilateral negotiations and arrangements	16
Proof of impact/progress	17
Other promising features	17
F. Tunisia - Formation of a new body of inspectors for the recruitment industry	18
Proof of impact/progress	18
Other promising features	18
G. Feedback mechanism on forced labour and other labour rights violations	19
Proof of impact/progress	19
Other promising features	19
H. India - Blacklisting employers and recruiters abroad from recruiting Indian migrant workers	20
Proof of impact/progress	20
Other promising features	20
I. Regulation on private recruitment agencies in Uganda	21
Uganda migration and recruitment profile	21
Regulation of international recruitment of migrant workers	21
Role of social partners	22
J. Madagascar alignment of labour code to newly ratified conventions	22
About international labour standards (ILS)	23
The labour migration and fair recruitment context in Madagascar	23
Ratifications in 2019	24
Process of aligning national legislation with newly ratified Conventions	24
K. Recruitment of health workers through bilateral labour agreements (BLAs): Kenya and the United Kingdom	25

Health care worker migration from Africa	25
Impact of COVID-19 on recruitment	26
Role of bilateral labour agreements (BLAs) in facilitating health worker migration	26
Development of the Kenya and UK BLA on health care workforce, 2021	26
▶ Section II. Promoting Fair Business Practices	28
Introduction	28
L. Piloting fair recruitment from Bangladesh to Qatar in the construction sector	29
Proof of impact/progress	29
Other promising features	29
M. Fair recruitment pilot between Nepal and Jordan in the garment sector	30
Proof of impact/progress	30
Other promising features	31
N. Mexico - Fair recruitment practice by recruitment agency adapted to COVID-19	31
Other promising features	32
O. Code of Conduct on the fair recruitment of migrant domestic workers from the Philippines to Hong Kong	32
Proof of impact/progress	32
Other promising features	33
P. Code of Conduct in international supply chains by Responsible Business Alliance	33
Proof of impact/progress	33
Other promising features	34
Q. Commitment to fair recruitment and due diligence in the sugar and palm oil industry of Guatemala	34
Proof of impact/progress	35
Other promising features	35
R. Zero recruitment fee policy for (migrant) workers in Jordan	36
Proof of impact/progress	36
Other promising features	36
S. Code of Conduct for Ethiopian Overseas Private Employment Agencies	36
Labour migration from Ethiopia	36
Regulation of recruitment in Ethiopia	37
Regulation of recruitment fees and related costs	38
Process for introduction of the Code of Conduct for Ethiopian Overseas Private Employment Agencies	38
▶ Section III: Empowering and Protecting Workers	40
Introduction	40
T. Guatemala – Outreach through trade unions including attention to COVID-19	40
Proof of impact/progress	40
Other promising features	40
U. Raising Pakistani migrant workers’ awareness of their right to fair recruitment	41
Proof of impact/progress	41
Other promising features	41
V. Establishment of the National Union of Malagasy Domestic Workers (SENAMAMA)	42
Proof of impact/progress	42
Other promising features	43
Epilogue	44

▶ Section IV: Resources on Fair Recruitment	45
Prominent Sections of Selected International Labour Standards	45
Private Employment Agencies Convention, 1997 (No. 181) – Article 7:	45
Private Employment Agencies Recommendation, 1997 (No. 188) - Section II on protection of workers	45
Forced Labour Protocol, 2014 (P029) - Article 2 (d) and (e)	46
Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)	46
II. Other Prominent ILO Resources	47
ILO General Principles and Operational Guidelines for Fair Recruitment (GPOG) and definition of recruitment fees and related costs	47
The definition of recruitment fees and related costs that accompanies the GPOG	48
ILO Multilateral Framework on Labour Migration (MLFLM) (2006)	48
ILO brief on COVID-19 and recruitment	49
ILO Good Practices Database on labour migration including fair recruitment	49
III. Prominent UN resources	49
Global Compact for safe, orderly and regular migration (GCM)	49
United Nations Guiding Principles on Business and Human Rights, 2011	51
IRIS Code - International Organization for Migration, International Recruitment Integrity System Code of Conduct	51
IV. Other Prominent Sources on Fair Recruitment	51
ITUC Recruitment advisor	52
Institute for Human Rights & Business (IHRB) - The Dhaka Principles for Migration with Dignity (2012)	52
Responsible Recruitment Toolkit (RRT)	52
Verité, Fair Hiring Toolkit and Sample Code of Conduct Provisions	52

► Acronyms

AHKMA	Association of Hong Kong Manpower Agencies
ASAZGUA	Asociación de Azucareros de Guatemala (Sugar producers association)
BEOE	Bureau of Emigration and Overseas Employment (Pakistan)
BWJ	Better Work Jordan
CAMAGRO	Cámara del Agro (Chamber of Commerce of Guatemala)
CBA	Collective Bargaining Agreement
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CEJ	Center for Excellence in Journalism
CIERTO	An international farm labour contractor
CoC	Code of Conduct
COVID-19	Corona Virus Disease 2019
FAIR	ILO integrated programme on fair recruitment
FRI	Fair Recruitment Initiative
GCM	UN Global Compact for safe, orderly and regular Migration
GDP	Gross Domestic Product
GEFONT	General Federation of Nepalese Trade Unions
GPOG	ILO General Principles and Operational Guidelines for Fair Recruitment
GoB	Government of Bangladesh
GREPALMA	Gremial de Palmicultores de Guatemala (Palm oil Producer asociación of Guatemala)
ILO	International Labour Organization
ILS	International Labour Standards
ISO	International Organization for Standardization
IT	Information Technology
ITUC	International Trade Union Confederation
JTGCU	General Trade Union of Workers in Textile, Garment and Clothing Industries (Jordan)
MLFLM	Multilateral Framework for Labour Migration
MoEWOE	Ministry of Expatriate's Welfare and Overseas Employment (Bangladesh)
MoU	Memorandum of Understanding
NAP	National Action Plan
NAVTTTC	National Vocational and Technical Training Commission (Pakistan)
OECD	Organization for Economic Co-operation and Development
OSH	Occupational Safety and Health

PAC	Prior Approval Category (India)
PWF	Pakistan Workers Federation
RBA	Responsible Business Alliance
REFRAME	An ILO project on global action to improve the recruitment framework of labour migration
RLI	Responsible Labour Initiative
SaMi	Safer Migration Initiative (Nepal)
SHARP	Society of Hong Kong-accredited Recruiters of the Philippines
SVAP	Supplemental Validated Audit Programme
TFHI	The Fair Hiring Initiative
UAE	United Arab Emirates
UN	United Nations
USA	United States of America
VAP	Validated (compliance) Assessment Programme
WEC	World Employment Confederation

► Introduction to the Compendium of Promising Practices on Fair Recruitment

In 2014, the ILO launched the global Fair Recruitment Initiative (FRI) as part of the ILO Director General's call for a Fair Migration Agenda, and in response to raised concerns about reported abuses of migrant workers and the growing role of unscrupulous employment agencies, informal labour intermediaries and other operators acting outside the legal and regulatory framework that prey especially on low-skilled workers. Reported abuses included deception about the nature and conditions of work; retention of passports; illegal wage deductions; debt bondage linked to repayment of recruitment fees; and threats if workers want to leave their employers coupled with fears of subsequent expulsion from a country. It was recognized that a combination of these abuses can amount to human trafficking and forced labour. The aims of the FRI-initiative were hence to (i) help prevent human trafficking and forced labour, (ii) protect the rights of workers, including migrant workers, from abusive and fraudulent practices during the recruitment process, and (iii) reduce the cost of labour migration and enhance development outcomes for migrant workers and their families, as well as for countries of origin and destination.

The 2021-2025 FRI Strategy (Phase II) will continue to be grounded in relevant international labour standards (ILS), global guidance, and social dialogue between governance institutions and actors of the labour market – i.e. those who directly experience the challenges and opportunities of implementing fair recruitment practices. The FRI has combined global policy dialogue, knowledge and data generation with on-the-ground interventions where tools are tested, implemented, and expertise created.

Its vision is to ensure that recruitment practices nationally and across borders are grounded in labour standards, are developed through social dialogue, and ensure gender equality. Specifically, they:

1. are transparent and effectively regulated, monitored, and enforced;
2. protect all workers' rights, including fundamental principles and rights at work (FPRW), and prevent human trafficking and forced labour;
3. efficiently inform and respond to employment policies and labour market needs, including for recovery and resilience.

The ILO Forced Labour Protocol (P029) was also adopted in 2014. The Protocol recognizes the importance of “protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process in order to prevent forced labour”. The accompanying Recommendation (No. 203) prescribes specific remedial measures that include (a) ensuring that recruitment fees or costs are not charged directly or indirectly to workers, (b) requiring transparent and written contracts that clearly explain terms of employment and conditions of work, in a language understood by the worker, (c) establishing adequate and accessible complaint mechanisms, (d) imposing adequate penalties, (e) implementing mechanisms for the effective regulation and monitoring of (recruitment) services, and (f) providing support to businesses to identify, prevent and mitigate the risks of forced labour in their operations or in products, services or operations to which they may be directly linked.

A centerpiece of the FRI was the development and adoption, in 2016, of the ILO General Principles and Operational Guidelines for Fair Recruitment (GPOG), complemented by the definition of recruitment fees and costs (adopted in 2018). These two documents together constitute the most up-to-date, internationally agreed guidance in the area of recruitment. They are grounded on international labour standards, were adopted through a process of tripartite social dialogue, and are informed by extensive research. Their importance was underscored in the UN global compact for safe, orderly and regular migration (GCM), which was adopted in 2019, and they have been referenced since in a range of migration policies across the world.

In 2020, the ILO reviewed progress made since the launch of the FRI a good five years earlier, by conducting a stocktaking exercise aimed at documenting promising practices towards fair recruitment. During the stocktaking exercise, ILO staff in consultation with a diverse range of partner agencies reflected on initiatives that are making a difference, and identified and documented the most promising practices in a standard format for purposes of capacity building, knowledge sharing and promotion. Criteria for selection of promising practices included the need for the identified practices to:

- ▶ be in line with international norms for the protection of worker rights, including migrant workers, particularly the right to fair recruitment, with recruitment fees and related costs not paid by the worker (pre-condition);
- ▶ show progress towards fair recruitment, and where either
 - possible proof of impact in the lives of migrant workers; or
 - likelihood of impact in the lives of migrant workers (main selection/evaluation criteria);
- ▶ Offer any of the following complementary selection/evaluation criteria:
 - Potential for replication or extension;
 - Externalities or unintended positive impact on secondary beneficiaries;
 - novelty or level of innovation;
 - Relevance or extent to which the practice solves the identified problem and meet the identified needs of migrant workers;
 - Sustainability or extent to which conditions are in place for longer-term continuation;
 - Efficiency or value for money;
 - have incorporated at least one of the following cross-cutting dimensions:
 - Gender sensitivity and responsiveness;
 - Non-discrimination or inclusion of hard to reach and most vulnerable workers, including migrant workers; and
 - participation and representation or voice, social dialogue and tripartism.

The outcome of the stocktaking exercise is captured in this compendium. It presents 22 promising practices from across the globe, including 7 from countries in Asia and the Pacific, 3 from the Americas, 3 from the Middle East, 1 from Europe, 6 from Africa, 1 from Central Asia, and 1 global practice.

The identified practices cover a variety of sectors and organizations, and are presented by type of intervention, align with three of the four pillars of the FRI, and feature practices that concern:

- ▶ Improving laws, policies, and enforcement to promote fair recruitment,
- ▶ Promoting fair business practices, and
- ▶ Empowering and protecting workers.

Some of the practices include attention to COVID-19 concerns during recruitment. Summary notes of the identified practices are also captured in the ILO's labour migration good practices database and on the Fair Recruitment Initiative web portal.

The documentation of the promising practices in this compendium is aimed to contribute to enhancing global knowledge on national and international recruitment processes. It is hoped that the documented practices prompt replication in other countries or regions, adaptation for context and cross-fertilization with other emerging practices, and further advancement towards fair recruitment.

The documented promising practices in this compendium are supplemented by a resource section that offers links to core instruments and organizations involved in fair recruitment, and that a number of the practices that are featured in this compendium relate to or draw from.

▶ Section 1: Improving Laws, Policies and Enforcement

Introduction

Despite the existence of international labour standards relating to recruitment, national laws and their enforcement often fall short of protecting the rights of workers, and migrant workers in particular. The adoption of the GPOG has given new impetus to regulatory reform at national and bilateral level, and a number of countries have followed suit by aligning their laws and/or policies to relevant international labour standards, especially ILO Convention No. 181.

This section covers a number of initiatives by national governments in the realm of regulation and enforcement for fair recruitment that are considered promising practices. These include law reforms by the governments of Thailand and Viet Nam. Another practice of interest is from Italy, as the country has developed and is implementing a comprehensive and multidisciplinary action plan to tackle unfair recruitment based on its link to human trafficking and forced labour. At bilateral level, Nepal negotiated a labour agreement with Jordan, and drawing from this experience, it has ensured that all its bilateral agreements take a rights-based approach where “ensuring welfare and rights of workers is promoted and protected”.

Along similar lines, Bangladesh invested in equipping its staff to promote fair recruitment in bilateral negotiations and arrangements. Following the adoption of a recruitment law, the Tunisian government created an inspectorate specifically dedicated to inspecting private recruitment agencies that place Tunisians abroad with a view to ensuring fair recruitment. Importantly, this inspection unit has the authority to issue dissuasive sanctions against recruiters who break the law. In Uzbekistan, a feedback mechanism was put in place by the Ministry of Employment and Labour Relations and Federation of Trade Unions in 2016. The mechanism provides the citizens of Uzbekistan with an anonymous channel for addressing complaints and queries related to forced labour and other labour rights violations during the cotton harvest. Finally, this section features a system that was introduced by the Government of India to blacklist foreign employers and recruitment agencies that have violated the rights of Indian migrant workers.

A. Law amendment concerning management of migrant workers in Thailand

In June 2017, the Thai Royal Ordinance Concerning Management of Employment of Migrant Workers came into force. It triggered widespread confusion and panic among employers and workers alike, especially caused by excessive penalty provisions and due to a lack of consultation with stakeholders prior to the enactment of the Royal Ordinance and the hastily manner in which it was prepared. One week after the promulgation of the Ordinance, there were reports of tens of thousands of migrants leaving Thailand and significant labour shortages emerging for employers. In response, the Thai Government suspended the enforcement of problematic provisions and initiated a series of public hearings feeding into a review process aimed to amend the Royal Ordinance, and sought technical support from the ILO to assist in the amendment process.

The revised version of the Royal Ordinance Concerning Management of Employment of Migrant Workers was adopted in March 2018 and includes a number of provisions in line with international labour standards and good practices, including the following:

- ▶ Zero recruitment fees charged to migrant workers (drawing from the ILO's Private Employment Agencies' Convention (No.181). Note that the definition of "recruitment fees" still needs to be defined in secondary legislation;
- ▶ No prison sentences imposed on irregular migrant workers;
- ▶ Written contracts are to be provided in the language of migrant workers (a provision that goes beyond protections offered in the Labour Protection Act);
- ▶ Increased flexibility for migrant workers to change employers;
- ▶ Prohibition on the confiscation of migrants' identification documents;
- ▶ Removal of housing zones that restrict migrants' freedom of movement;
- ▶ Appointment of a tripartite committee to oversee migration policy.

Proof of impact/progress

Several of the stipulations of the 2017 Ordinance were distinctly reactionary. These included further prohibitions on the types of work that migrants are allowed to engage in, application of a levy on employment of migrants in order to force economic restructuring and establishment of compulsory migrant housing zones, and the stipulation that costs for passport, health check-ups, work permit and other similar costs were to be borne by the migrant worker. It also imposed disproportionate criminal penalties on migrants who were found working without proper permits.

The 2018 Amendment of the Royal Ordinance addressed most of these concerns and appears to have created a more conducive environment for migrant worker recruitment. One outstanding concern is that while the Royal Ordinance adopts the principle of zero recruitment fees payable by migrant workers, it does not define what constitutes 'recruitment fees not to be paid by migrant workers' and instructs that this needs to be further elaborated under secondary legislation.

As yet, no impact assessment of the legal changes is available. Nevertheless, the normative relevance and impact of 'zero fee' legislation should not be underestimated. Combined with credible law enforcement and regular assessment of impact more proof of impact may emerge.

Other promising features

Participation and representation

Social dialogue enshrined within legislative implementation with a tripartite committee appointed to oversee migration policy.

Rights based

Labour rights are enshrined in the legislation that was adopted to the benefit of migrant workers. The legislation reflects ILO Conventions 29 (with respect to freedom of movement) and 181 (with respect to non-payment of recruitment fees by

migrant workers), the UN Guiding Principles on human rights and human trafficking, the ILO's indicators of forced labour and a commitment to social dialogue.

B. Viet Nam - Revision of the Law on Contract-Based Overseas Workers

Following an ILO-supported assessment of the 2006 version of the Law on Contract-Based Vietnamese Overseas Workers (Law 72), the ILO put forth recommendations for revisions to the legal framework for labour migration in Viet Nam in 2017. In 2020, Law 72 was revised by the National Assembly.

A series of broad-based consultations ensued, involving amongst others employers and workers' organizations and, significantly, migrant workers. Furthermore, the engagement of anti-human trafficking stakeholders helped to create clarity on the nexus between effective rights-based labour migration legislation – including attention to fair recruitment - and prevention of human trafficking. Along with these consultations, drafts of a new Law were prepared to which ILO provided inputs based on requests by the National Assembly Social Affairs Committee.

On 8 December 2020, the Vietnamese President's Office announced the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14 (Law 69), which was adopted by the 14th National Assembly of Viet Nam on 13 November 2020 and will come into force in January 2022.

Several of ILO's key recommendations have been incorporated into the final version of the Law, including:

- ▶ the removal of the obligation for migrant workers to pay brokerage commissions and an explicit prohibition on recruitment agencies passing these costs on to workers;
- ▶ the removal of the obligation for migrant workers to pay service fees in addition to brokerage commission to public employment services in line with Convention 88:
- ▶ if part or all of the service fee is covered by employers or foreign receivers, then workers will only pay for any remaining amount required under Law;
- ▶ the ability for migrant workers to unilaterally liquidate contracts in situations of threats, sexual harassment, maltreatment or forced labour;
- ▶ the inclusion of definitions for discrimination and forced labour in line with ILO Conventions 111 and 29;
- ▶ a provision for legal aid in cases of abuse, violence or discrimination whilst working abroad;
- ▶ specific wording about gender equality in the state goals;
- ▶ prohibition on deceitful advertising for the purpose of organizing trafficking in persons, abusing recruitment activities to illegally collect fees, and charging brokerage fees – breaching these prohibitions results in recruitment agency license revocation;
- ▶ pre-departure training must include information on: forced labour, trafficking in persons prevention, gender equality, sexual abuse, gender-based violence and prevention skills.

Proof of impact/progress

As the Law does not come into force until 1 January 2022, there has been no impact assessment of the legal reform pertaining to migrant worker recruitment. The normative relevance and impact of removing one of the cost categories for payment by migrant workers is an important step forward nevertheless, as is the possibility of unilateral contract liquidation in case of maltreatment.

The magnitude of the number of migrant workers in previous years may provide an indication of future benefits: In 2019, over 152,530 (54,700 women) migrant workers went to work abroad through regular migration channels, including 82,703 workers to Japan and 54,480 workers to Taiwan (China). In March 2020, around 560,000 Vietnamese people were working in more than 40 countries and territories worldwide.

In 2019, migrant workers travelling to Taiwan (China) alone cumulatively paid over USD 81 million to recruitment agencies for brokerage commission (USD 1,500 per migrant worker under Law 72), which will be saved under the new Law.

Other promising features

Participation and representation

Tripartite and civil society dialogue, including with Vietnamese migrant workers, informed the drafting process of the revised law.

Potential for replication or extension

The specific removal of brokerage fees tackles a cost category that is regularly charged to migrant workers, and should be mirrored in other countries with migration destinations shared with Viet Nam.

C. Italian National Action Plan to tackle labour exploitation, unlawful recruitment and forced labour in agriculture

Following the adoption of Law No 199 (of 2016) on labour exploitation in agriculture, the Italian government has developed and implemented – in three components - a National Action Plan (NAP) for the period 2020-2022 in which fair recruitment is a key area of the broader labour exploitation response. The first focuses on the analysis of the causes and effects of labour exploitation and unlawful recruitment in agriculture. The second is centred on emergency interventions in the geographical areas most at risk of labour exploitation and unlawful recruitment, while the third component consists of the implementation of 10 priority actions to prevent and combat labour exploitation and unlawful recruitment, as well as protect and assist victims through a referral mechanism that leads to their socio-economic inclusion through decent work.

The labour intermediation related outputs include:

- ▶ Improved planning of agricultural labour force requirements, including the setting of seasonal migration flows of foreign workers;
- ▶ The analysis, with the contribution of the social partners, of the types of labour contracts available and their responsiveness to the requirements of the agricultural sector;
- ▶ Improved effectiveness, efficiency and equity of the employment services delivered by labour intermediaries (public and private) to agricultural workers and employers, including through an IT-platform and mobile device Applications;
- ▶ Strengthened specialized services for workers in agriculture and mobile units to bring recruitment services in proximity of agricultural fields and displace “gangmasters”;
- ▶ Improved capacity of public institutions at national and regional levels to monitor the application of regulations on labour intermediation by private employment agencies;
- ▶ Cooperation between public employment services and licensed private employment service providers;
- ▶ An alliance between public and private providers of intermediation services that operates in line with the ILO’s GPOG and national legislation on labour intermediation.

Proof of impact/progress

Unlawful recruitment was included as part of a global approach to labour exploitation in a national law that combines prevention and remedial measures to tackle labour exploitation, including sanctions and remedies, as well as civil and penal liability of both recruiters and employers that employ workforce that was unlawfully recruited (Law 199/2016). The provisions of Law No. 199 have been operationalized through a National Action Plan that contains 10 priority actions and implementation mechanisms to protect workers from unlawful recruitment practices, with remedial action to victims where required. Although the number of sentenced cases by courts has significantly increased after Law 199/2016 entered

into force, the impact of the practice in terms of protecting workers from unlawful and unfair recruitment should be confirmed through an evaluation.

Other promising features

Novelty / level of innovation

A digital labour intermediation platform and telephone applications (Apps) to tackle unlawful recruitment;

Provision of labour intermediation services in proximity of users (employment service staff go to the places of residence or work of agricultural workers rather than the other way round);

Collaboration between countries of origin and of destination to prevent unlawful recruitment of migrant workers.

Relevance

Fair recruitment as part of a global strategy to tackle labour exploitation and forced labour helps to catalyse the contribution of a wide number of actors and interventions.

Sustainability

The practice is sustainable as it derives from law and policy and is now implemented nation-wide by public institutions in collaboration with private providers and with funds set aside from the budgets of national institutions.

Efficiency

The inclusion of fair recruitment as key component of a broad strategy allows for the maximization of results with limited inputs, compared to approaches that address fair recruitment as stand-alone issue.

D. Nepal - Bilateral Labour Agreements include provisions related to fair recruitment

The ILO, through the Integrated Programme on Fair Recruitment and the Work in Freedom project, provided technical support to the Government of Nepal to draft the bilateral agreement (BLA) with Jordan in line with ILO GPOG. The agreement was signed in 2017 following tripartite discussion. It includes sections on key responsibilities of both the parties, monitoring through a joint working committee, and a standard employment contract (one for general workers; and another for domestic workers). The agreement with Jordan served as a model for bilateral agreements that were later negotiated with Malaysia, Mauritius and the United Arab Emirates. These BLAs were among the first in Asia to be aligned to the ILO GPOG.

Some of the objectives highlighted in these agreements are to:

- ▶ Establish a framework for recruitment, employment and repatriation of Nepali migrant workers abroad and regulate these processes in accordance with the principles of transparency, fair recruitment and mutual benefits;
- ▶ Control and regulate fees and costs related to the recruitment and employment of migrant workers. Formalize costs related to recruitment intermediation and employment of migrant workers;
- ▶ Cooperate to address matters related to trafficking in persons and forced labour
- ▶ Establish mechanism to review and take decisions on issues in relation to rights and welfare of migrant workers and concerns of employers;
- ▶ Facilitate cooperation and exchange of information on best practices on labour migration management for mutual benefits;

- ▶ Promote international labour standards of rights at work, encourage decent work opportunities, enhance social protection and strengthen social dialogue on work-related issues (ref. agreement with Jordan).

Proof of impact/progress

Since the signing of the various agreements up to 15 July 2020, the following numbers of workers have been recruited from Nepal under a fair recruitment arrangement: 6,381 (to Jordan); 59,714 (to Malaysia); 81 (to Mauritius) and 93,424 (to United Arab Emirates).

While these agreements offer normative guidance, their impact could be more pronounced if meetings of the joint monitoring committee had taken place regularly. Studies on the effectiveness of the BLAs could help shed further light on the extent of impact.

Other promising features

Potential for replication or extension

The BLA that Nepal negotiated with Jordan served as a model for similar agreements with Malaysia, amongst other countries. Bangladesh followed Nepal in attempting to negotiate a better recruitment and employment framework for its workers in Malaysia.

Some key provisions included in the model agreement are:

- ▶ Freedom to change employers (conditional);
- ▶ Fair recruitment- costs related to recruitment of workers to be borne by employers and the protection of workers against unfair practices as well human rights abuses such as harassment, abuse, forced labour and exploitation;
- ▶ Provisions for access to dispute resolution mechanism;
- ▶ Freedom of movement (prohibition of withholding of passport);
- ▶ Access to health care benefits and adequate food and housing;
- ▶ Standard employment contract to promote transparency;
- ▶ Equality of treatment.

Relevance

With over 4 million labour permits issued in the last decade and the volume of remittances reaching 8.79 billion in fiscal year 2018/2019, accounting for 28 per cent of GDP for that year, labour migration is one of the key features of the Nepali economy. Sound bilateral labour agreements and standard employment contracts are considered key instruments to Nepal to ensure protection of migrant workers in countries of destination.

E. Bangladesh – Government capacity enhanced to promote fair recruitment in bilateral negotiations and arrangements

In 2016, the Government of Bangladesh (GoB) adopted the Overseas Employment Policy to safeguard the rights of migrant workers. Subsequently, the government engaged with ILO for capacity building assistance on fair recruitment and safe migration. The ILO Bangladesh Migration Project contributed:

- ▶ Technical support to a joint committee on Memoranda of Understanding (MOU) resulting in the GoB reviewing three MoUs signed with Lebanon, United Arab Emirates and the Maldives and developing a standard contract as Annex.

- ▶ A set of guidelines and good practice examples on bilateral agreements (BLAs) and MoUs, which prepared the ground for a sustainable and institutional approach to ensure protection of rights of migrant workers in their preparation and in standardising their contracts.
- ▶ Rights based contributions to a standardized contract for domestic workers in compliance with CEDAW and ILO Convention 189.
- ▶ Training of government officials on labour migration diplomacy (including attention to drafting and negotiating MoUs and BLAs), orientation of recruitment agencies on fair recruitment principles and guidelines.
- ▶ Support to institutionalize the online reporting system for labour attaches in countries of destination. The system includes reporting on the monitoring of employment contracts, and monitoring of an online system for migrant worker complaints and settlement.

Proof of impact/progress

A wide range of migration stakeholders in the government, private sector, think tanks and trade unions agree that the cost of migration (including recruitment) can be reduced and fair recruitment practices can be promoted on the basis of the MoUs and BLAs.

The Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) set up a unit to discuss and monitor regularly on fair recruitment.

The Ministry has fixed a threshold for possible costs of migration to several destinations through a Ministry circular entitled 'fixing service charge and cost' (14 June 2017).

A Vigilance Task Force oversees the fair recruitment process and conducts inspections at the offices of recruiting agencies and at ports of departure.

The governments of Bangladesh and the United Arab Emirates (UAE) agreed to cooperate in documenting the costs related to recruitment and employment of Bangladeshi workers, and in raising awareness among workers about hiring guidelines before and after their arrival to the UAE.

With ILO support, the GoB developed a standardized contract for domestic workers in compliance with CEDAW and ILO Convention 189, which is under negotiation with the authorities in Lebanon (reported in March 2021).

The GoB has also improved the complaint and settlement mechanism for migrant workers as labour attachés now report regularly on complaints to the Ministry, and their role has been revisited to enable them to contribute better to resolution of labour disputes.

Key fair recruitment principles were considered during the preparation (in 2020 and early 2021) of an amendment to the Act of Overseas Employment and Migrants Act (2013) (i.e. regarding definitions, accountability of sub agents, transparency of contract, and contract substitution). The amended Act is envisaged to be ready for Cabinet approval during the 2nd quarter of 2021.

Other promising features

Potential for replication or extension

A 'research guide on bilateral agreements and memoranda of understanding on labour migration' provides a review of 20 good practices of regional economic communities including 4 bilateral migration agreements and MoUs, and suggested measures to be taken regarding governance, protection and development. The guide may assist multiple stakeholders beyond the GoB in their considerations pertaining to MoU /BLA's.

F. Tunisia - Formation of a new body of inspectors for the recruitment industry

In 2017, the ILO conducted a "Diagnostic on the processes of worker recruitment in Tunisia". The Diagnostic, which had been prompted by concern for Tunisian workers who had faced recruitment irregularities in the Kingdom of Saudi Arabia, issued a number of recommendations towards improving labour recruitment processes for Tunisians seeking to work abroad. One of these recommendations called for legislative reform. A tripartite committee was convened by the ILO to consider the reform, and submitted, in 2019, the "Law on the organisation of the exercise of the activities of placement of Tunisians abroad by private agencies" (or Recruitment Law), which was approved by the Council of Ministers on 8 May 2019. The new law extends the State's authority to deliver sanctions to recruitment agencies that do not comply with defined operational and procedural standards. The Ministry of Labour then approved the formation of a new inspectorate, to monitor and enforce the implementation of the Recruitment Law. A job description was accordingly defined and validated by relevant ministries. With ILO's support, the Ministry of Labour then developed comprehensive guidance and tools to equip the new inspectorate, and a training programme to build its capacity.

Several tools have been developed to support the capacity of this new inspection body:

- ▶ A self-evaluation checklist to enable inspectors to evaluate their competencies in 7 areas
- ▶ A standardised inspection process tool, enabling each inspector to carry out their inspection in a structured and sequential manner by pointing out all the checks to be carried out.
- ▶ An "inspectors booklet" bringing together all relevant training materials and aims to provide future inspectors without initial training, with theoretical and practical knowledge
- ▶ A guide on good inspection practices, which outlines the unified methodological approach to be taken during inspection visits, in line with the legislation and national and international regulations.

Proof of impact/progress

The following has been achieved since the diagnostic:

- ▶ Strengthened legislation extending the state's authority to regulate the activities of private recruitment agencies. Article 13 of the Recruitment Law clearly mentions that it is forbidden for private recruitment agencies to receive - directly or indirectly - any financial payments from prospective migrant workers; Article 11 of the Law spells out the essential elements that must be clearly mentioned in any employment contract.
- ▶ The creation of an inspectorate specifically dedicated to inspecting private recruitment agencies placing Tunisians abroad with a view to ensuring fair recruitment. Importantly, the new inspection unit has the authority to issue dissuasive sanctions against recruiters who commit irregularities/break the law.
- ▶ The Office of Emigration and Foreign Manpower has become a general directorate and several private employment agencies have submitted their files to the ministry to regularize their status.

Other promising features

Novelty/Level of innovation

The newly created inspection body is specifically geared towards monitoring private recruitment agencies, and has been given the authority to issue a range of sanctions, which gives it extra-ordinary powers to ensure compliance with the new Recruitment Law and principles of fair recruitment.

Potential for replication

While much has been written and said about the need to better enforce recruitment regulations, little tangible progress has been made in the area of inspection of recruitment agencies. The practice in Tunisia is ripe for replication and/or adaptation in many countries of origin and destination seeking to have better oversight mechanisms for private

recruitment agencies recruiting or placing migrant workers. ILO Nepal is considering dialogue with national stakeholders in view of replicating the Tunisian practice, and other countries may follow suit.

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G. Feedback mechanism on forced labour and other labour rights violations

Almost two million people are recruited every year by authorities and heads of institutions/organizations to pick cotton for the annual cotton harvest in Uzbekistan, making it the world's largest recruitment effort. The feedback mechanism (FBM) enabled the government and social partners to accelerate the fight against child and forced labour during the cotton production cycle. The FBM on forced labour and other labour rights violations was put in place by the Ministry of Employment and Labour Relations (MELR) and Federation of Trade Unions (FTUU) in 2016. The FBM has had different channels, such as telephone hotlines, a chatbot deployed via the messenger application Telegram, and email. Once the complaint or query is received, it is passed on to the labour inspectors and/or lawyers of the FTUU who immediately investigates the case.

Proof of impact/progress

- ▶ more than 13,500 people have been protected from forced labour and other labour rights violations;
- ▶ 520 public officials and heads of entities have been sanctioned for applying forced labour and other labour rights abuses during the annual cotton harvests;
- ▶ awareness raising materials about the FBM produced and disseminated: more than 500,000 posters, flyers, leaflets, brochures, banners; video spots, telegram bots, etc.;
- ▶ 730 lawyers and labour inspectors were trained on how to identify and respond to cases of forced labour identified through the FMB.

Other promising features

Participation and representation

According to the 2020 third party monitoring report, Sixty-five percent (65%) of pickers are women, and the vast majority are from rural areas

Rights-based

The FBM has offered the first ever channel for people to complain or submit queries on child labour, forced labour and other labour rights related abuses in the cotton production. With the increased use of the FBM, the law enforcement improved: more people were protected and offenders sanctioned.

Sustainability

Although initiated with ILO and World Bank support, the FBM continues to function to this day. The MELR and FTUU regularly allocate funds for its maintenance and development. It is viewed as an important channel for receiving direct

feedback from citizens on measures and reforms and is informing the state policies on labour issues and human and labour rights.

Novelty / level of innovation

This FBM was the first ever channel in Uzbekistan where forced pickers could complain on their situation. In the beginning, people had little trust in the FBM and in the institutions promoting it (the MELR and FTUU). However, this started to change when the FBM started to yield results.

Replicability

In addition to the FBM being extended to other sectors, all government structures and the President Office in Uzbekistan have adopted FBMs, inspired from the FBM on forced labour and labour rights.

H. India - Blacklisting employers and recruiters abroad from recruiting Indian migrant workers

The Government of India has created a system for blacklisting foreign employers and recruitment agencies that have violated the rights of Indian migrant workers. If there is a complaint of rights violations against a foreign employer/agency by migrant workers, the Indian recruiter is expected to resolve the complaint as the first step. The recruiter can face suspension of license or even forfeiture of bank guarantee if at fault. This serves as an incentive for Indian recruiters to carry out due diligence of foreign employers and agencies.

Proof of impact/progress

The migration clearance system blocks unscrupulous employers and agencies from recruiting from India, preventing and protecting future migrant workers from possible exploitation by these employers and agencies. Transparency is maintained by making the list of the Prior Approval Category (PAC - of employers involved in recruitment irregularities) publically available on the government website.

In January 2021, there were 706 employers and agencies from 16 countries on the PAC list. The list includes individual employers as well as small, medium and large established businesses and even multinationals. Some of these companies are even ISO-certified and recipients of large government contracts, and their listing puts pressure on them to address recruitment related irregularities.

Other promising features

Potential for replication or extension

Nepal and the Philippines have similar lists of employers/recruiters abroad who have violated the rights of migrant workers. Replicating this initiative in other countries of origin, and through initiatives such as the Colombo process, could create pressure on employers in destination countries to adhere to recruitment and employment standards.

Novelty / level of innovation

This practice provides a simple, yet effective means to put pressure on employers and encourages Indian recruiters to perform due diligence before engaging with foreign employers/recruiters. By making the information publicly available, it also creates opportunities for sharing information with other origin countries and protecting all migrant workers from such employers.

Non-discrimination / inclusion of hard to reach and/or most vulnerable migrants

Employers at destination who commit rights violations and are recalcitrant to resolve issues may try to approach the least informed and most vulnerable groups of workers. The electronic clearance system at origin automatically prevents such employers from recruiting from India, thereby protecting the most vulnerable Indian migrants.

I. Regulation on private recruitment agencies in Uganda

Comprehensive recruitment regulation, developed through tripartite consultation.

Uganda migration and recruitment profile

Uganda is a labour migration country of origin and destination, and a major recipient of refugees. Situated in East Africa, Uganda is part of a number of Regional Economic Communities (RECs), including the East African Community (EAC), Intergovernmental Authority on Development (IGAD), and Common Market for Eastern and Southern Africa (COMESA) – which include free movement protocols. Most Ugandan migrants work in neighbouring countries, in particular Kenya, South Sudan and Rwanda. Inter-regional labour migration of low-skilled workers has increased in recent decades, primarily to countries in the Arab States. Ugandan workers in this region largely work as domestic workers, security guards, drivers and construction workers.¹

Regulation of international recruitment of migrant workers

Migration to the Arab States is primarily facilitated by private employment agencies (PEAs). Uganda has not ratified the Employment Service Convention, 1948 (No. 88), the Private Employment Agencies Convention, 1997 (No. 181) or the Domestic Workers Convention, 2011 (No. 189), however it has introduced numerous labour migration governance structures – including specific legislation, regulation of recruitment agencies, and signing of bilateral labour agreements (BLAs), among others. The competent authority is the Ministry of Gender, Labour and Social Development (MGLSD), which includes the External Employment Unit (EEU) who are responsible for licensing and regulating PEAs.

The key national legislation is:

- ▶ [The Employment Act, 2006 \(Act No. 6\)](#)
- ▶ The Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021
- ▶ The 2015 Guidelines on Recruitment and Placement of Ugandan Migrant Workers Abroad (currently undergoing revision)

The government has signed BLAs with Saudi Arabia and Jordan (currently suspended), and a Memorandum of Understanding (MoU) with the United Arab Emirates (UAE). The government is in the process of developing BLAs with Bahrain, Kuwait, Lebanon, and Qatar.

The **Employment (Recruitment of Ugandan Migrant Workers) Regulations**, introduced in 2021, replaces the previous 2005 Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad. The 2021 Employment Regulations cover licensing of recruitment agencies; inspection; accreditation of foreign recruitment agencies; recruitment, advertisement and placement; fees and charges; and pre-departure orientation guidance and training.

A **standardized system of licensing PEAs** is overseen by the EEU, under the MGLSD. The two-year Licences can be applied for and approved through the online External Employment Management Information System (EEMIS). The EEMIS portal is used for potential jobseekers as well, as it contains a list of approved and vetted PEAs and overseas jobs that Ugandans

¹ ILO (2020) The potential of skills development and recognition for regulated labour mobility in the IGAD Region: A scoping study covering Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda.

can apply to. Tripartite consultations contributed to the development of the licensing system.² PEAs are only able to recruit and place workers where there is a signed BLA with the country of destination (currently Saudi Arabia). Regarding monitoring and enforcement, the 2021 Employment Regulations grant the Ministry the authority to inspect the premises, documents and equipment of the recruitment agency and the premises where pre-orientation seminars are conducted (Article 15(1)), including spot inspections (Article 15(2)).

Regarding fees and costs, the 2021 Employment Regulations outline fees payable by a foreign recruitment agency, fees chargeable to migrant workers, and fees to be paid by the agency to the Ministry. Migrant workers may be charged a fee not exceeding 20,000 Uganda shillings (UGX) (USD 5.50 as of 16/03/2022) for the administrative costs of recruitment (Article 26(1)). Article 26(2) and 26(3) state that where the recruitment agency does not charge a migrant worker the UGX 20,000 as per Article 26(1), the recruitment agency may charge a migrant worker placement fees to cover a range of costs, including trade or skill testing, pre-departure training, medical examination, passports, notarization etc. The placement fees are only to be paid by the worker once the employment contract is signed, and a receipt must be issued. In the case of recruitment of domestic workers, the foreign recruitment agency is required to cover all costs for recruitment and placement (Article 25(3)). However, it must be noted that fees chargeable to migrant workers are contrary to international standards that workers should not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment.

The Government has also instituted a **four-party employment contract**, whereby PEAs in Uganda and in the country of destination are **jointly liable**. The four signatories are the PEA in Uganda, the PEA in the country of destination (in this current case, in Saudi Arabia), the migrant worker and the employer. In addition, the EEU ensures that the employment contracts of workers deployed by PEAs conform to the standard employment contract and keep copies.³

Role of social partners

The **Uganda Association of External Recruitment Agencies (UAERA)** was founded in 2013, and as of July 2021 includes 206 members.⁴ Section 32 of the 2015 Guidelines on Recruitment and Placement covers the roles of stakeholders, and requires the association of PEAs to develop a binding code of conduct and ethics; to gather information on high risk agencies and regularly screen their members and new membership applications; and to sensitize their members on the code of conduct and ethics. In 2017, UAERA adopted a code of conduct that all its members must adhere to.⁵ UAERA is active in monitoring of placements, and has undertaken three monitoring visits to Jordan.

In recent years the **National Organization of Trade Unions (NOTU)** has become active in the space of labour migration. **In February 2022, NOTU and UAERA signed an MOU, witnessed by the Federation of Uganda Employer (FUE).** The objectives of the MOU are to develop a working relationship between UAERA and NOTU for promotion of decent work in external employment, and to defend the interests and voice of migrant workers. As per the Agreement, both parties will participate in the orientation of migrant workers; both parties shall review the model contract periodically; both parties shall make proposals to review BLAs and MOUs as and when required; and the parties agree to engage in joint awareness raising activities, including campaigns to ratify ILO Conventions.

J. Madagascar alignment of labour code to newly ratified conventions

Following ratification of key international labour standards concerning labour migration and fair recruitment, a process of comprehensive legislative reform to reopen safe and fair migration pathways for Malagasy workers is ongoing

² ILO (2020) An assessment of labour migration and mobility governance in the IGAD region: Country report for Uganda.

³ ILO (2021) Africa Regional Fair Recruitment Report: The recruitment of migrant workers to, within and from Africa.

⁴ UAERA (2021) Progress report: 2020-21.

⁵ ILO (2021) Africa Regional Fair Recruitment Report: The recruitment of migrant workers to, within and from Africa.

About international labour standards (ILS)

International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) setting out basic principles and rights at work. They are either Conventions (or Protocols), which are legally binding international treaties that may be ratified by member states, or Recommendations, which serve as non-binding guidelines to support implementation.⁶ Conventions and Recommendations are discussed, negotiated and adopted at the annual International Labour Conference.

Ratification creates a legal obligation to apply the Convention in national law and practice and to report on compliance to the ILO's supervisory mechanisms, including the Committee of Experts on the Application of Recommendations and Conventions (CEARC). In addition, complaint procedures can be initiated against countries for violations of a Convention that they have ratified.⁷

The labour migration and fair recruitment context in Madagascar

Madagascar is a net migration country, with historically France being a key country of destination for students and small groups of high-skilled labour migration. New migratory corridors have emerged in recent decades – with key destinations in the Arab States and neighboring countries of the Indian Ocean. Data based on exit permits issued to migrant workers from 2006-12 suggests key countries of destination are Lebanon, Mauritius, Kuwait, Seychelles, Jordan and Saudi Arabia. The majority of those migrating to the Arab States are women to work in domestic work.^{8 9}

Following concerning reports about abusive practices and trafficking in persons in countries in the Arab States, Madagascar responded with a ban on labour migration (through suspension of the issuing of exit permits) to “high risk” countries in 2013.¹⁰ This ban was further strengthened by a 2019 Decree banning departures to countries where Madagascar has no diplomatic representation. Furthermore, a 2015 Decree invoked a nationwide ban on the operation of private employment agencies (PEAs) by revoking all licenses of PEAs.¹¹ These effective bans had the impact of pushing workers into irregular migration channels and leaving workers who choose to migrate particularly vulnerable without access to services and assistance. To date (as of March 2022), these regulations are still in place, while labour migration to countries not considered “high risk” (for example, Mauritius) is taking place. Regarding regulation of PEAs and recruitment fees and costs, following the 2015 ban on licensing and operations of PEAs, unlicensed and informal brokers became more widespread (having existed prior to the ban as well). Despite prohibition on payment of fees and expenses by workers in the Labour Code, the practice is systemic.¹²

Having taken a prohibitive approach to regulation of labour migration in the past decade, in 2019 Madagascar sought a realignment, starting with ratification of key ILO instruments to set the basis for a comprehensive labour migration policy that protects workers' rights and ensures social dialogue.

⁶ ILO, Labour standards, available [here](#).

⁷ Learn more: [Rules of the Game: An introduction to the standards-related work of the International Labour Organization \(Centenary edition 2019\)](#)

⁸ OIT (2021) Résumé de pays : le recrutement équitable à Madagascar

⁹ Accurate data on outflows of migrant workers remains challenging in Madagascar, especially in light of effective bans on migration. The data from 2006-2012 mentioned here is based only on issuance of exit visas for migrant workers, and does not cover migration in general. For further information and data see: OIT (2020) Examen des lois, politiques et pratiques concernant le recrutement des travailleurs migrants à Madagascar.

¹⁰ Décret 2013-594 du 6 août 2013.

¹¹ Order No. 20.308/2015/MEETFP “repealing the authorizations of placement agencies”.

¹² ILO (2021) Africa regional fair recruitment report: The recruitment of migrant workers to, within and from Africa

Ratifications in 2019

In June 2019 Madagascar ratified six ILO Conventions, which entered into force on 11 June 2020:

- ▶ The 2014 Protocol to the Forced Labour Convention, 1930 (No. 29)
- ▶ The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- ▶ The Labour Relations (Public Service) Convention, 1978 (No. 151)
- ▶ The Collective Bargaining Convention, 1981 (No. 154)
- ▶ The Private Employment Agencies Convention, 1997 (No. 181)
- ▶ The Domestic Workers Convention, 2011 (No. 189)

The contribution of ratification of these Conventions towards shaping a better labour migration legal framework was specifically mentioned by the President at the time of deposit.¹³

Process of aligning national legislation with newly ratified Conventions

Following the ratifications, with technical advisory services from the ILO, Madagascar embarked on a process of comprehensive legal reform including amendments and modifications to the Labour Code. With regard to labour migration, efforts have been made to improve the exit visa application process for migrant workers to improve efficiency and transparency, and a new law on PEAs focused on strengthening regulation has been drafted. An administrative procedures manual on authorization to leave the country for migrant workers has also been developed. The new provisions mark the first step towards lifting of restrictions on labour migration.

An Inter-Ministerial Committee (first established in 2015 and revitalized in recent years) was established to serve as a coordination mechanism and to propose amendments to the labour law and other decrees. Tripartite consultations to discuss proposed amendments and new texts were held in 2020 and 2021. The proposals will continue to be discussed by the competent technical bodies (including the National Labour Council) before submission process before Parliament.

Negotiations of bilateral labour agreements (BLAs)

Several BLAs and Memorandum of Understanding (MOUs) between Madagascar and Mauritius, Saudi Arabia, Kuwait and Lebanon are in the draft stages of development. The BLA development process typically includes rounds of negotiation and comments, and the formation of a joint committee composed of officials from both countries.

Translating new legislation into practical guidance for key stakeholders

An important part of dissemination and operationalization of new legislation is to develop practical guides and resources to be used by key stakeholders. To support these efforts, focal points on migration have been established in selected communities of origin – comprising a mix of employers, workers and local authorities. A [“Practical Guide”](#) for fair recruitment focal points outlining role of employers, workers and civil society organizations has been developed distributed to migration focal points and to SENAMAMA (domestic worker union) leaders (see text box 1).

¹³ ILO, 12 June 2019, Madagascar takes a leading role in the “One for All” Centenary ratification campaign by ratifying six ILO Conventions

► **Text box 1: Formation of the trade union of domestic workers in Madagascar – SENAMAMA**

SENAMAMA was registered as a trade union in 2019. The union currently includes more than 2,000 members – many of whom are domestic workers who have returned from working in the Arab States. The union has recently worked to develop its constitution, elect leaders and develop an action plan. The union has also participated in the national tripartite dialogues on revisions to the legal framework governing labour migration to ensure compliance with recently ratified ILS. For more information see: ILO (2022) Promising practices for Fair Recruitment: Establishment of the National Union of Malagasy Domestic Workers (SENAMAMA)

K. Recruitment of health workers through bilateral labour agreements (BLAs): Kenya and the United Kingdom

Kenya and the United Kingdom have entered into a bilateral labour agreement (BLA) on recruitment of health workers, based on principles in the World Health Organization (WHO) Global Code of Practice.

Health care worker migration from Africa

International migration and mobility of health workers is increasing in volume and growing in its complexity. Many health systems rely on migrant workers to fill critical labour shortages – however

labour migration schemes for health workers are often temporary and rights-restricting. Across the OECD (Organisation for Economic Co-operation and Development) countries, nearly one-quarter of all doctors are born abroad and close to one-fifth are trained abroad. Among nurses, nearly 16 per cent are foreign-born and more than 7 per cent are foreign-trained.¹⁴ Seventy per cent of the health and social workforce are women.¹⁵

The World Health Organization (WHO) estimates a projected shortfall of 18 million health workers by 2030, mostly in low- and lower-middle income countries,¹⁶ and health worker mobility is predicted to continue and accelerate in response. Patterns of health worker mobility are complex, and evidence points to substantial intra-regional, “South-South”, and “North-South” movement, to complement better understood movement from the “Global South” to the “Global North”.¹⁷

In the African region, migration remains an attractive option for health workers looking for better remuneration and to improve skills and working conditions. However, if not managed well, increased international demand for health workers will leave considerable skills gaps in Africa’s already weak health systems.¹⁸

Recognizing the need for coordination, the World Health Organization (WHO) has introduced initiatives to support Member States and relevant stakeholders to better and more ethically manage international health worker migration and mobility. The WHO Global Code of Practice on the International Recruitment of Health Personnel is a key global governance instrument in this area (see Text box 2)

¹⁴ OECD Policy Responses to Coronavirus (COVID-19), May 2022, Contribution of migrant doctors and nurses to tacking COVID-19 crisis in OECD countries. Available [here](#).

¹⁵ WHO Health workforce. Available [here](#).

¹⁶ WHO Health workforce. Available [here](#).

¹⁷ ILO, WHO, OECD (2017) The International Platform on Health Worker Mobility: Elevating dialogue, knowledge and international cooperation. Available [here](#).

¹⁸ Africa Union/JLMP (2020) [Mobility and Migration of African Health Workers Post COVID-19](#).

► **Text box 2: The [WHO Global Code of Practice on the International Recruitment of Health Personnel](#).**

Adopted in 2010, the WHO Global Code elaborates ethical norms and seeks to contribute to strengthened management through improved data, information, and international cooperation. To date, 64 countries have incorporated Code provisions into national law, policy, or international bilateral agreements. A review of the code was conducted in May 2020, available [here](#).

Impact of COVID-19 on recruitment

The COVID-19 pandemic has had a devastating impact on healthcare systems and workers worldwide. The WHO estimates that between 80,000 and 180,000 health and care workers could have died from COVID-19 in the period between January 2020 to May 2021.¹⁹ In response to the pandemic, many governments fast tracked immigration procedures and recognition of skills in order to attract health care workers;²⁰ and many also introduced bonus payments to encourage retention of health care workers.

Role of bilateral labour agreements (BLAs) in facilitating health worker migration

Bilateral labour migration agreements (BLAs) are a labour migration governance tool that aim to strengthen the protection of migrant workers and increase benefits for all parties. To be effective, they must be solidly underpinned by international human rights and labour standards and effectively implemented. Yet, experiences with BLAs have often fallen short of these expectations. Previous ILO and IOM (International Organization for Migration) research indicates that the contents of BLAs in Africa are often deficient, particularly in regard to provisions on gender, social dialogue, wage protection measures and skills recognition, among others.²¹ ILO and IOM have developed a [BLMA Assessment Tool](#) which supports BLA design and implementation, and includes practical checklists and data collection tools. The United Nations Network on Migration launched in 2022 [Guidance on Bilateral labour migration agreements](#).

Development of the Kenya and UK BLA on health care workforce, 2021

In July 2021 the governments of Kenya and the UK signed a [BLA on health care workforce](#). The bilateral agreement sets out the framework under which nurses and other healthcare professionals from Kenya can be recruited to the UK. The agreement covers: areas of cooperation, recruitment, employment conditions, regulation of recruitment and the setting up of a Joint Committee to oversee the implementation and interpretation of the BLA. The Joint Committee is to be tripartite, and to include Ministry of Health officials.

The BLA includes a section on “areas of cooperation” which covers bilateral exchanges, educational placements and capacity building. In this regard, the UK Government is undertaking to train the healthcare workforce through scholarships and through provision of grants to medical training institutions including the Kenya Medical Training College (KMTCC), in order to strengthen knowledge acquisition and transfer.

In addition to the BLA, **a further agreement creates a special route for unemployed Kenyan health professionals and health managers to work in the UK National Health Service (NHS)**. The scheme was requested by the Kenyan government. The agreement is only open to Kenya’s surplus health workers who are qualified but unemployed. The exact numbers and process for visas were to be confirmed in 2021.²²

Regulation of labour migration in Kenya

Kenya has ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Kenya is finalizing its draft National Labour

¹⁹ WHO, 20 October 2021, Health and Care Worker Deaths during COVID-19. Available [here](#).

²⁰ For example, see research and data from the OECD [here](#).

²¹ ILO (2019) [Bilateral Labour Migration Agreements in African Union Member States: Taking Stock and the Way Forward](#).

²² UK Foreign, Commonwealth and Development Office (FCDO), 29 July 2021, “Unemployed Kenyan nurses given chance to work in UK under new Kenya-UK health agreements”. Available [here](#).

Migration Policy. Currently, labour migration governance is guided by the 2013 National Employment Policy and Strategy for Kenya, and the 2014 Diaspora Policy.

Recruitment is to take place through accredited recruitment agencies in both countries, and must be compliant with the [United Kingdom's code of practice for the international recruitment of health and social care personnel in England, 2021](#) (which implements the WHO Global Code of Practice). The Kenyan National Union of Nurses (KNUN) has been involved in the development of the agreement, and has an active role in implementation, including by attesting the candidates for employment in the UK. Fees and costs are to be covered by the employers in the UK. The UK government states that operational guidelines are currently in development and to be published in due course.²³

Outcomes and next steps

The BLA is in the early stages of implementation and will be monitored by the Joint Committee. The Kenyan government is considering the conclusion of further BLAs for recruitment of healthcare workers with other key countries of destination. WHO and ILO tools and guidance (see below) can guide the process, ensuring that the outcomes of the BLA benefit workers, employers, and their representatives in countries of origin and destination.

► Text box 3: Philippines-Germany BLA on health workers

Germany and the Philippines entered into a BLA for government-to-government recruitment of health workers in 2013. The parties to the Agreement include the Philippine Overseas Employment Administration (POEA), the German Federal Employment Agency (BA), International Placement Services (ZAV) and the (German) Agency for International Cooperation (GIZ). The Agreement is notable for inclusion of several good practices, including comprehensive pre-departure training programme and establishment of a Joint Committee to monitor implementation. The Joint Committee includes representatives from trade unions of both country parties (Ver.di from Germany and PSLINK from the Philippines). The BLA is available [here](#).

²³ Bilateral Agreement between The Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland for Collaboration on Health Care Workforce.

▶ Section II. Promoting Fair Business Practices

Introduction

Fair recruitment has multiple benefits. It creates decent work, provides new job opportunities, improves the functioning of labour markets, and prevents labour and human rights violations during the recruitment process that can lead to situations of forced labour. Fair recruitment also makes business sense as companies that do not guard against recruitment abuse may face reputational damage from involvement in unlawful practices, including by subcontractors down the value chain.

This section features a number of promising practices by businesses.

To promote fair recruitment at the corridor level and demonstrate its economic viability, ILO and the Qatari authorities engaged with businesses to develop a fair recruitment corridor between Bangladesh and Qatar in the construction sector. Along similar lines, ILO engaged with businesses to create a fair recruitment corridor between Nepal and Jordan for work in the garment industry.

In the Mexico to USA corridor, a non-profit recruitment agency has been offering fair recruitment services to migrant workers in agriculture for a number of years. The promising practice that is featured in this compendium is that, at the inception of the Coronavirus pandemic in 2020, the agency adapted its recruitment procedures to ensure migrant workers benefit from protection against Covid-19 and are offered health care.

Codes of conduct are another way forward, and this section of the compendium features one such code by recruitment agencies in the domestic work sector of the Philippines to Hong Kong (China) corridor. At the global level, the Responsible Business Alliance implements another code of conduct – inspired by the GPOG – which affects all its 164 members and their next tier suppliers, and impacting an estimated 3,5 million workers across the world.

Also featured are business initiatives in Guatemala, where employers in the sugar and palm oil production sectors committed to fair recruitment, and doing due diligence to prevent, mitigate and resolve current risks throughout value chains, including those related to recruitment irregularities and human rights violations.

Finally, this section of the compendium features an initiative in Jordan, where, following tripartite consultation, businesses in the garment sector agreed to a zero-fee unified contract for workers including migrant workers.

With regards to businesses, the resources section of this compendium also offers a link to the World Employment Confederation, which showcases additional innovative approaches to recruitment.

L. Piloting fair recruitment from Bangladesh to Qatar in the construction sector

The pilot intervention started with an external on-site audit of a sub-contractor of a large construction company in Qatar and a private recruitment agency in Bangladesh. Assessing compliance against ILO's GPOG, the audit mapped out the entire recruitment process; identified gaps in existing systems, policies, and procedures; and assessed the organizations' capacity to comply with fair recruitment. Based on the results of the assessment, the Ministry of Labour (MOL) in Qatar and ILO provided tailored training and tools to expand the capacity of the management and staff of the sub-contractor and the private recruitment agency to comply with fair recruitment. The service agreement between the sub-contractor and the private recruitment agency was amended. Procedures and tools were developed to establish an effective grievance and workers' communication system during the recruitment process. The pilot also worked with the sub-contractor and the private recruitment agency to build a comprehensive pre-departure programme for workers going into the Qatari construction sector. An independent impact assessment has been conducted together with Tufts University and Associates for Community and Population Research to measure the socio-economic impact of the pilot.

Proof of impact/progress

The pilot covered 142 workers from Bangladesh, and the final report of the impact assessment indicates that the workers who were recruited after the pilot intervention, reported paying no or less recruitment fees compared to workers who were recruited before the intervention (i.e. the average cost of migration dropped by 92% after the pilot engagement in comparison to the average costs before the sub-contractor adopted fair recruitment practices).

In addition, there were positive outcomes in terms of workers' concern regarding payment of debt, their control over the decision to migrate, and to the likelihood of learning about actual pay and hours before making the decision to migrate. More specifically: Around 93 % of workers interviewed after the pilot reported not having any debt. Furthermore, the workers recruited after the pilot intervention have a better understanding of their pay and report less tolerance for abuse from the employer or the clients of the employer where the workers are placed for work.

The pilot showed the implementing fair recruitment is possible with commitment and transparency amongst all actors involved. The concrete tools developed through the pilot are easy to use and adapt, to address coercive and deceptive recruitment practices. It demonstrated that companies can achieve fair recruitment in a relatively short time span. It took just a few months to reach a massive drop in the average recruitment fees and related costs paid by workers, as well as to address deceptive practices; to deeply reform company policies and practices; and to achieve fair recruitment.

Other promising features

Externalities and use of pilot learning

The pilot has informed the hospitality guidance tool that the MoL-ILO hospitality working group (consisting of over 40 hotels operating in Qatar) developed. It includes specific actions that hotels can undertake to carry out effective due diligence of their recruitment practices. The hospitality guidance tool is now being adapted for use in other sectors in Qatar. Currently, the ILO Project Office for Qatar and the MoL is planning an engagement with companies from different sectors, through the Qatar Chamber of Commerce and Industry, to share lessons and concrete tools from this pilot.

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Potential for replication or extension

Currently, the ILO Project Office for Qatar and the MoL is planning an engagement with companies from different sectors, through the Qatar Chamber of Commerce and Industry, to share lessons and concrete tools from this pilot.

The pilot highlighted the benefits to workers, while demonstrating that companies can reduce the risks of unfair recruitment while facilitating better selection of workers. While it focused on recruitment of workers in Bangladesh for the Qatar construction industry, the pilot can serve as a case study for similar initiatives in other countries and other sectors.

M. Fair recruitment pilot between Nepal and Jordan in the garment sector

The fair recruitment corridor pilot between Nepal and Jordan was designed in collaboration with the Better Work Jordan and social partners. Through the Integrated Programme on Fair Recruitment (FAIR), the ILO linked up with a private employment agency that developed procedures for fair recruitment of Nepali workers in the garment sector in Jordan in line with the ILO GPOG. The pilot was undertaken with 4 factories in Jordan who had expressed interest to participate.

The project also partnered with Safer Migration Initiative (SaMi) in Nepal to provide a month long skills training for work in the garment sector in Jordan, along with pre-departure awareness training aimed at providing the workers with accurate information about their employment and labour rights in Jordan.

The project also worked with General Federation of Nepalese Trade Unions (GEFONT) as well as The General Trade Union of Workers in Textile, Garment & Clothing Industries in Jordan (JTGCU) to facilitate Nepali migrant workers' access to justice in case of irregularities in the recruitment and employment process, whilst also informing about their rights, especially with regards to collective bargaining.

Proof of impact/progress

As a result, 160 Nepali workers were fairly recruited under the pilot. The impact evaluation by Tufts University concluded the following key benefits of fair recruitment for workers (compared to workers who migrated for work outside the pilot):

- ▶ Protection from contract deception and debt bondage as fairly recruited workers paid no recruitment fees and had less migration related debt;
- ▶ More positive personality traits, and more control over their working conditions (fairly recruited workers were likely to feel proud of their work and were comfortable seeking help from their supervisors upon arrival);
- ▶ A better understanding of the terms of their contracts;
- ▶ More likely to reach their production target.

The study also documented the following benefits of fair recruitment: It increases worker voice and well-being, fosters an improved working environment, positively impacts performance at work, and benefits both workers and their employers (i.e. workers that paid recruitment fees were less likely to reach their production targets and reported a poorer match between their skills and the job they were recruited for).

The study also found that decent work deficits in the destination country may erode some of the benefits of fair recruitment, suggesting that work on fair recruitment needs to go hand in hand with efforts to improve working conditions of migrant and national workers at destination.

Other promising features

Non-discrimination / inclusion of hard to reach and/or most vulnerable migrants

The majority of the beneficiaries of the pilot have been women migrant workers (154 of the 160 beneficiaries were women). The intervention initially focused on migrant workers from areas most affected by the earthquake that hit Nepal in April 2015.

Potential for replication or extension

In the course of the implementation of the pilot, one recruitment agency in Nepal sending the highest number of workers to Jordan has indicated interest to adopt a fair business model and work on the Nepal-Jordan corridor. The agency has undergone an audit and the ILO is supporting the agency to address the gaps identified in the audit.

Relevance

Over the years, governance of female migration from Nepal has been restrictive with imposition of various forms of migration bans particularly because of the abuse and exploitation faced by women migrant workers who predominantly migrate into domestic work. Hence, the Jordanian garment sector has emerged as a meaningful alternative for domestic work.

N. Mexico - Fair recruitment practice by recruitment agency adapted to COVID-19

The recruitment policy of CIERTO, a not-for-profit recruitment agency in Mexico, is aligned to ILO's GPOG and puts emphasis on: a) promotion of employer paid recruitment; b) a shared responsibility approach in the labour supply chain to ensure adequate protection of migrant workers; c) strengthening communities of origin's knowledge on fair recruitment by developing third-party independent, human rights based monitoring of recruitment within communities of origin. They also train workers on how complaint mechanisms work with their employer, assist them in filing a complaint if necessary, and intervene only when a complaint does not receive a timely resolution. A third-party independent monitoring actor supervises CIERTO's work in communities of origin (mostly so that no recruitment fees are charged). They also visit employers at destination to ensure that CIERTO's description of workplace conditions is accurate, and they conduct worker's surveys upon return to document any potential abuse either by the recruiter (CIERTO) or by the employer.

At the start of the COVID-19 pandemic, when all mobility restrictions between Mexico and the USA came into place, the USA government was nevertheless allowing migration of temporary workers to the USA agricultural sector (essential sector / H2A visa) and even increased the number of visas available. In this context, CIERTO adapted its existing fair recruitment practices immediately to ensure the health and safety of all migrant workers. To protect workers income during the pandemic CIERTO made sure all workers recruited by them have guaranteed health coverage in country of destination and origin (at the time of return). This includes paid sick leave days in case of COVID-19 for the duration of their contract in the USA, and free COVID-19 testing of all workers if one worker presented symptoms. OSH standards regarding COVID-19 prevention were introduced at all stages of the recruitment process, and agricultural workers have been listed as a priority population to receive the vaccine (in 2021). To facilitate arrangements and negotiations with all their partners and suppliers in the recruitment process (including pre-departure, during stay in the USA and upon return) CIERTO created mixed commissions overseeing OSH and fair recruitment practices for every ranch they work with, along with an assistance hotline. Regular COVID-19 testing for temporary workers returning from the USA was provided by local government at community of origin as a result of CIERTO's direct negotiation with local municipalities.

Proof of impact/progress

During 2020, CIERTO recruited 1,614 workers under the fair recruitment and OSH modalities described above (which is an increase on the 1,600 workers they recruited in 2019, despite COVID-19). These workers do not have any debt as a result of their recruitment and none of them bear the costs of migration. In addition, they are safe from practices such as

retention of documents, non-payment of salary, contract substitution, deceitful and fraudulent job offers, among others. None of the workers recruited in 2020 got COVID-19, ensuring a COVID-19 free completion of the seasonal work to the benefit of workers and employers. Communities of origin are being protected upon return of workers, thus preventing saturation of local health systems and the spread of COVID-19. CIERTO has seen an increase in the number of employers that are requesting their services as their practices guarantee employers can keep operating safely, while US consulates in Mexico are prioritizing CIERTO's visa renewals requests given that they trust CIERTO follows USA's sanitary measures and requirements.

Other promising features

Non-discrimination / inclusion of hard to reach and/or most vulnerable migrants

This practice is focused on temporary migrant workers in an essential sector (agriculture). CIERTO recruits mostly indigenous workers and its recruitment practices are sensitive to ethnic, linguistic and gender diversity.

Potential for replication or extension

This practice sets an example for other recruitment agencies in the Mexico-USA corridor, very few of which currently apply fair recruitment procedures on the basis of the flawed notion that fair recruitment is not profitable. The creation of a Mixed Commission for recruitment purposes with engagement of all actors in the labour supply chain as well as the successful application of OSH standards during the recruitment process is worth replication. Employers show interest in working with recruiters that guarantee arrival of healthy (and qualified) workers, and there is a growing pressure from retailers to have ranches work with CIERTO amid the pandemic.

O. Code of Conduct on the fair recruitment of migrant domestic workers from the Philippines to Hong Kong

Following promotional work on the ILO's GPOG, a global milestone was achieved in June 2019 when the Association of Hong Kong Manpower Agencies (AHKMA) and the Society of HK-Accredited Recruiters of the Philippines (SHARP) signed the first ever Code of Conduct on the fair recruitment of domestic workers from the Philippines to Hong Kong (China). Both associations have committed to enforce the Code and seek to validate compliance to the Code through a survey of workers.

ILO FAIR Phase II project and The Fair Hiring Initiative (TFHI) supported the initiative to develop an online worker feedback system, which monitors recruitment agencies' compliance to the Code's principles and commitment of AHKMA and SHARP. Survey questions were developed that are in line with the core principles of the Code of Conduct (which are in line with the ILO GPOG). The findings and analysis from the pilot workers' feedback survey will inform both recruitment associations about the recruitment experiences of the workers they have deployed and identify a corrective action plan to address recruitment issues in the corridor.

Proof of impact/progress

While the Code of Conduct and preceding training on fair recruitment holds promise, they will gain further meaning through a follow up mechanism that includes a worker survey, baseline information system and corrective action plan. However, due to Covid-19 restrictions, the survey was put on hold, thus delaying the collection of necessary evidence to demonstrate that the practice is making a difference in the lives of migrant workers. Once undertaken, the survey will feed into a baseline information system that will in turn inform the Corrective Action Plan of AHKMA and SHARP. The baseline information for domestic workers in the Philippines-Hong Kong corridor will also be of use for other sectors in other countries of destination, including the impact of COVID-19 on these recruitment corridors.

Other promising features

Non-discrimination / inclusion of hard to reach and/or most vulnerable migrants

This initiative brings the monitoring of working conditions of workers in a household setting into focus, a place of employment that is otherwise inaccessible to labour inspection.

Potential for replication of extension

This voluntary initiative emphasizes what branding fair recruitment practices can do to separate the good from unscrupulous recruitment agencies and thus serve as leverage for change (currently 1 out of 8 recruitment agencies in Hong Kong is a member of AHKMA). Other associations of recruitment agencies have taken interest in developing a similar Code of Conduct, which offers scope for collective branding of good recruitment practices.

P. Code of Conduct in international supply chains by Responsible Business Alliance

The Responsible Business Alliance (RBA), which includes 164 companies (as of 1 February 2021) that together employ over 3.5 million workers, holds its members accountable to a common Code of Conduct (CoC) and the accompanying standards, including the requirement (since 2015) of no payment of recruitment fees by (migrant) workers. It also provides a range of related training and assessment tools to support the continuous improvement in implementing responsible recruitment and employment practices of its members and their suppliers.

The RBA approach is aligned with the OECD Due Diligence Guidance for Responsible Business Conduct and includes the following:

- ▶ Using RBA standards to provide a harmonized platform for members to embed recruitment fees due diligence policies into company management systems;
- ▶ Provision of training and tools to support members to identify and assess risks;
- ▶ Provision of a specialized audit that specifically focuses on the risks of forced labour and detection of recruitment fees paid by (migrant) workers;
- ▶ RBA membership monitoring of compliance to the CoC through its assessment programs, including the Validated (compliance) Assessment Program (VAP) and the Supplemental Validated Audit Process (SVAP) on Forced Labour (an audit program tailored exclusively to identify the risk of forced labour at an employment site or private recruitment agency);
- ▶ Confidential worker interviews (during assessments) with strong non-retaliation protection. In some key geographical areas, these are supplemented through 3rd party helplines;
- ▶ Support the implementation of corrective actions including remediation for workers found to have paid recruitment fees;
- ▶ Accelerating the adoption and implementation of a recruitment policy where no fees are paid by (migrant) workers;
- ▶ Tracking progress and communicating to relevant stakeholders.

Proof of impact/progress

The RBA approaches have resulted in increased transparency of recruitment processes, an overall lowering of recruitment costs, and better protection of workers. They also led to the elimination of excessive recruitment fees paid by (migrant) workers and mitigated risks related to forced labour.

Specific achievements include the following:

- ▶ Close to 90% of RBAs 164 members have committed to the RBA CoC and actively pursue conformance to the CoC and its standards, including adopting the RBA Trafficked and Forced Labour – “Definition of Fees” principle which states that a worker shall not be required to pay fees to obtain or retain their employment;
- ▶ The CoC is regarded as a total supply chain initiative where at a minimum, an RBA member shall also require its next tier suppliers to acknowledge and implement the CoC and its standards, impacting thousands of companies in over 120 countries;
- ▶ In 2019 alone, the RBA conducted more than 1,000 audits in 38 countries regarding adherence to the CoC, including fair recruitment;
- ▶ Since 2018, RBAs Validated Assessment Programmes in factories have impacted the lives of 2,151,984 workers positively (i.e. the worker Quality of Life score – which includes metrics on disposable time, disposable income and health - increased by 34% in the period);
- ▶ Since 2009, approximately USD 50.5 million was reimbursed to close to 54,000 workers by RBA member companies and their suppliers (as of January 2021).

Other promising features

Gender sensitivity and responsiveness and Non-discrimination / inclusion of hard to reach and/or most vulnerable migrants

The RBA CoC Labour Section covers prohibition on gender-based violence, sexual harassment and sexual abuse. It also stated that “Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests, including pregnancy or virginity tests, or physical exams that could be used in a discriminatory way.”

Participation and representation

The RBA CoC is reviewed and updated every 3 years, with inputs from members and external stakeholders. In addition, the RBA’s Responsible Labour Initiative (RLI) on the rights of workers vulnerable to forced labour in global supply chains is governed by a multi-stakeholder steering committee that includes businesses, NGOs, IGOs, academics, socially responsible investor implementing partners and workers organizations.

Efficiency

The RBA CoC and its accompanying standards are considered a total supply chain initiative. It is adopted by RBA members and subsequently applied to their supply chains and subcontractors, including providers of labour or recruitment agency. All members are required to have a process in place to communicate the CoC requirements to their suppliers and to monitor their suppliers’ compliance to the CoC. Such an approach allows for standardization and optimization of due diligence activities, and in turn improves efficiency and effectiveness while reducing costs.

Q. Commitment to fair recruitment and due diligence in the sugar and palm oil industry of Guatemala

Through the technical assistance of the REFRAME Project and a consultative process, companies have been sensitized to the fact that the responsibility to respect human rights comes with accountability and transparent reporting requirements,

in accordance with established criteria. Subsequently, it was agreed to develop two specific sectoral policies, one for the sugar sector and the other for the palm oil sector, which take as a reference the ILO Declaration on Fundamental Principles and Rights at Work, as well as the ILO GPOG. Companies were provided with guidelines for the verification of good business practices in the respect of human rights, operational complaint mechanisms and suggestions for remedial action. Examples of good practices were also described in the guide along with criteria to measure their effectiveness

Proof of impact/progress

Following the consultations, the sugar producers association ASAZGUA, the palm oil producer association GREPALMA and its partners made a declaration of commitment to observe and comply with the human rights set forth in the Universal Declaration of Human Rights and the ILO Declaration on the Fundamental Principles and Rights at Work - taking into account the UN Principles on Business and Rights Human Rights and the ILO GPOG. They committed to promoting respect for these rights throughout value chains, including the right to freedom from forced labour, which is often the result of unfair recruitment.

ASAZGUA, GREPALMA and its partners committed to doing due diligence to prevent, mitigate and resolve current risks throughout value chains, including those related to recruitment irregularities and human rights violations.

ASAZGUA committed to “maintain the timely periodicity of the due diligence evaluations in matters of human rights to our associates”, and to “give continuity to the monitoring, evaluation and improvement system in social, labour and environmental aspects establishing goals of specific improvement for each associate”.

GREPALMA committed to training their partner agencies in human rights and fair recruitment and incorporating a mechanism to verify compliance. These actions have been validated with every participating company. Furthermore, the Sustainability Department of GREPALMA has been tasked to deal with queries related to compliance with the policy. GREPALMA also ensures follow-up to the implementation of the policy through its Board of Directors, and shares its bi-annual progress reports through its communication platforms with concerned parties. The content of the adopted human rights policies will also be reviewed annually as part of an evaluation process.

Thousands of (migrant) workers benefit from these measures. The 11 associated mills in ASAZGUA generate around 63 thousand direct jobs and 315 thousand indirect ones in the sugar sector while the palm oil sector in Guatemala generates 28,575 direct jobs and applies to 143,000 indirect beneficiaries.

Other promising features

Participation and representation

The elaboration of both policies for palm oil and sugar producing organizations was a participatory process involving their Boards of Directors, Chamber of Agriculture, companies and workers. During the formulation process they identified the human rights challenges together, including those related to forced labour, freedom of association, and non-discrimination (migrants, gender) and identified remedial action including the application of the principles of fair recruitment.

Ripple effects

Through due diligence, a process has been developed to respect human rights throughout value chains, and capacity has been built to identify, prevent, mitigate and remedy the risk of involvement in human rights abuses in companies own activities or due to their commercial relationships with suppliers and subcontractors.

R. Zero recruitment fee policy for (migrant) workers in Jordan

In light of the adopted ILO GPOG, the Jordanian Ministry of Labour, ILO, employers in the garment sector and the General Trade Union of Workers in Textile Garment and Clothing Industries (JTGCU) held a tripartite consultation. Following the consultation, they adopted a zero-fee policy aimed at ensuring that workers do not pay recruitment fees pre, during and post-employment in the garment sector in Jordan. The zero-fee policy, effective from January 2019, was incorporated in Better Work Jordan's (BWJ) compliance monitoring and reporting in such a way that factories would be reported as non-compliant when the payment of recruitment fees by migrant workers is known to occur.

Proof of impact/progress

According to BWJ compliance reports, the majority of Jordan garment factories have successfully committed to implementing the zero recruitment fee policy. According to the BWJ report of 2020 (based on data collected in 2019), 75 per cent of factories (based on a sample of 81 factories) were compliant with regard to workers not paying recruitment fees. The majority of factories (85 per cent) were found to have taken sufficient steps to ensure that workers do not pay recruitment fees.

BWJ assessments in factories offer scope for further improvement in that they report that workers from India and Nepal are particularly likely to pay recruitment fees, sometimes reaching as high as 1,000 USD.

Other promising features

Potential for replication or extension

In Jordan, BWJ is using the same principle to assess three other manufacturing sub-sectors (i.e. chemical, engineering and plastic) and cite non-compliance if workers paid recruitment fees. The practice of applying the "zero recruitment fee policy" through tripartite agreement is worth exploring in other sectors and countries.

Sustainability

Jordan's labour law mentions that it is the employers' responsibility to renew the work permits of migrant workers, while it does not include any provision on non-charging of recruitment fees to workers. The Instructions of Workers in the Qualified Industrial Zones (QIZs) prohibit charging any amount to workers; however, they exclude any fees determined by the country of origin of the migrant worker.

In addition, the 2019 Collective Bargaining Agreement (CBA) in the garment sector - which is currently under implementation - includes for the first time a provision (in Article 9b) prohibiting the charging of recruitment fees to workers.

S. Code of Conduct for Ethiopian Overseas Private Employment Agencies

Adoption of the Code of Conduct for Ethiopian Overseas Private Employment Agencies in 2021, by the Ethiopian Overseas Employment Agencies Federation (EOEAF) (formed in 2020) - ensuring alignment of industry practices with the new Overseas Employment (Amendment) Proclamation No. 1246/2021.

Labour migration from Ethiopia

Ethiopia has a population of approximately 107 million, with 71 per cent under the age of 30, and two million labour market entrants every year. Ethiopia is an origin, transit and destination country for mixed migration flows in the Horn of

Africa. It is also the second-largest refugee hosting country in Africa, with refugees largely originating from the East Africa region.²⁴

Many Ethiopian workers migrate to work as domestic workers, cleaners, construction workers or security guards – with common migration corridors being to the Gulf Cooperation Council (GCC) and Arab States, South Africa and Libya.²⁵ Access to regular migration opportunities for men and women are unequal – with more opportunities for women to migrate regularly into domestic work in the GCC and Arab States – leaving male migrants to resort more frequently to irregular channels, and skewing official statistics on labour migration.²⁶

Regulation of recruitment in Ethiopia

Having ratified the Private Employment Agencies Convention, 1997 (No. 181) in 1999 and the Employment Service Convention, 1948 (No. 88) in 1963 and given the significant role of private employment agencies (PEAs) in low-skilled migration to the GCC and Arab States in the last century, the Government of Ethiopia has instituted a number of provisions for labour migration governance in recent years. Recent achievements including the introduction of 2016 and 2021 Proclamations (see below) and the conclusion of bilateral labour agreements (BLAs) with a number of key countries of destination – including Jordan, Qatar, UAE and Saudi Arabia.²⁷ While Ethiopia has ratified the key employment services and private agencies conventions (C181 and C88), the country is yet to ratify Migration for Employment Convention (Revised), 1949 (No. 97) or the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – the key labour migration instruments. Furthermore, Ethiopia is in the process of drafting a national migration policy, although recruitment is currently not substantially addressed in the draft.

The Ministry of Labour and Skills (MoLS) (previously known as the Ministry of Labour and Social Affairs) is responsible for regulating labour migration and licensing and supervision of PEAs, as per the key legislative tool – the [Overseas Employment \(Amendment\) Proclamation No. 1246/2021](#), published in June 2021. National social partners have been engaged in the development of the Proclamation(s) and Operational Directives (see below). The 2021 Proclamation complements the earlier [Ethiopia's Overseas Employment Proclamation No. 923/2016](#), and they are to be read together. The aim of the new Proclamation is to fill gaps left in the 2016 iteration, to bolster the sector following the devastating impacts of COVID-19, and to provide stronger protection for migrant workers' rights. The **Operational Directives** were developed following a multi-ministerial consultative workshop in November 2021. The Directives will include further guidance on working conditions and procedures for conducting inspections, among other elements. An Operational Directive specific to workers in the maritime sector is also being drafted. The Operational Directives – which provide additional guidelines – have been drafted by the MoLS.

The 2021 Proclamation makes substantive changes in three particular areas including: opening up ownership of PEAs to foreign nationals; removing minimum education requirements (for an eighth grade education) for job seekers; allowing recruitment of skilled workers and the charging of fees to this category; and improved monitoring and oversight mechanisms – including the introduction of an Overseas Employment Inspectorate and Overseas Employment Board. Another significant development is that MoLS has been given the authority to assign an “overseas employment inspectorate” to monitor agencies' compliance with the Proclamation (within Ethiopia), rather than reliance on the general and broader labour inspectorate.²⁸ However it must be noted that the ILO assessment of the capacity and practices of PEAs in Ethiopia conducted in 2020 identified a number of concerns in relation to capacity to monitor compliance.

²⁴ ILO (2021) Africa regional fair recruitment report: The recruitment of migrant workers to, within and from Africa.

²⁵ ILO (2022) Assessment of the capacity and practices of overseas Private Employment Agencies in Ethiopia (forthcoming).

²⁶ ILO (2019) Policy Brief: Key findings and recommendations from survey on labour migration from Ethiopia to Gulf Cooperation Council states and Lebanon.

²⁷ ILO (2021) Africa regional fair recruitment report: The recruitment of migrant workers to, within and from Africa.

²⁸ ILO (2022) Assessment of the capacity and practices of overseas Private Employment Agencies in Ethiopia (forthcoming).

Regulation of recruitment fees and related costs

Ethiopia has two policies regulating recruitment fees and related costs: (a) a prohibition of fee charging by public employment services for national recruitment, and (b) regulations on fees and related costs to be charged to workers being recruited internationally by private employment agencies.²⁹

Article 10 of the Overseas Employment Proclamation No. 923/2016 provides comprehensive definitions of recruitment fees and costs. The Proclamation identifies the “expenses” to be covered by the worker and the costs to be covered by the employer. Article 42(3)(i) on “type of contraventions” (by agencies), states that “receiving fee, in cash or in kind, from a worker in return for overseas employment exchange service” is an infringement of the law that will lead to the revocation of the PRA’s license. The 2016 Proclamation also allows agencies to charge a “skilled worker”³⁰ up to one-months’ worth of their salary in exchange for their services (contrary to international standards that workers should not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment).

Regulations regarding payment of recruitment fees and related costs may also be articulated in bilateral agreements. For example, in the Ethiopia-Saudi Arabia BLA, domestic workers are prohibited from being charged fees for their recruitment.³¹

► Text box 5: How are recruitment industry associations and industry standards important and how can they be impactful?

While States bear primary responsibility for regulating and monitoring recruitment, industry initiatives that aim to drive ethical practices can be complementary to efforts of national legislation and law enforcement. These voluntary efforts may take the form of (a) associations of private employment agencies and (b) codes of conduct for private employment agencies.

Associations of PEAs can help to raise standards and ensure the industry is consulted when new standards are being drafted that affect their business. Private employment agency associations can also facilitate exchange of information between their members and government authorities. Industry associations have the potential to develop and enforce voluntary codes of conduct. Codes of conduct can be put in place by individual companies or by an association. They are not legally binding but should be based on international standards and national law. It is important that they are developed through “tripartite plus” consultation; that they include independent monitoring mechanisms; and that they are communicated publicly. In addition to voluntary codes of conduct, some private employment agencies have favoured more competitive systems of self-regulation, such as rating or labelling.

Process for introduction of the Code of Conduct for Ethiopian Overseas Private Employment Agencies

The Ethiopian Overseas Employment Agencies Federation (EOEAF) was formed in January 2020, bringing together three national PEA associations. The EOEAF consists of 764 PEAs that account for 98 per cent of Ethiopian overseas recruitment.³² The EOEAF actively participates in different forums and dialogues aimed to improve regulations and practices of labour migration management. The MoLS has engaged EOEAF in the development of policy documents including the 1246/2021

²⁹ ILO (2020) A global comparative study on defining recruitment fees and related costs: Interregional research on law, policy and practice.

³⁰ The term “skilled worker” is not defined by the 2016 or 2021 Proclamation. However, the distinction is made between “domestic worker” and “skilled worker”. While the 2016 Proclamation was intended to focus on “low skilled” workers, an objective of the 2021 Proclamation was to expand coverage to a broader range of workers with different skill levels.

³¹ Note that the United Nations Network on Migration and the African Union have recently launched new guidance on BLAs. See: The United Nations Network on Migration (2022) [Guidance on Bilateral labour migration agreements](#); ILO (2019) [Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region](#).

³² Code of Conduct: For Ethiopian Overseas Private Employment Agencies.

Ethiopian Overseas Employment (Amendment) Proclamation as well as the Operational Directive for both Proclamations (923/2016 and 1246/2021).

The Code of Conduct (COC) was developed in partnership with MoLSA and the ILO through a consultative process. Firstly, a **consultation workshop** was organized with stakeholders including EOEF agency members MoLSA, social partners, and the International Organization for Migration (IOM), to gather further inputs to the draft. Following this workshop, EOEF also hosted further consultations with EOEF members to discuss further. The final version was discussed and signed at a validation workshop and in the presence of the Ministry. Once adopted, the COC was translated and disseminated to members. According to the document, “the CoC aims to ensure responsible, fair and ethical recruitment practices and support the Government in improving the labour migration governance in the country. The CoC desire is to encourage professionalism, competence, integrity, accountability and trustworthiness in overseas PEAs while promoting fair recruitment practice in line with the ILO General principles and operational guidelines for fair recruitment.”

Regarding monitoring and evaluation, with the support of the ILO, a **self-assessment tool for PEAs/EOEF members** was developed following the “Assessment of the capacity and practices of overseas PEAs” study, conducted in 2020.³³ The self-assessment tool covers four areas: policy, people/human resources, procedures, and accountability. Each area is developed to ensure fair recruitment standards are applicable and migrant workers’ rights are being upheld. Furthermore, each dimension of the tool provides specific and measurable indicators with which overseas PEAs can begin to evaluate their compliance with the legal standards outlined in the Proclamation and other relevant legal instruments. The self-assessment further helps to measure progress towards each indicator.

Regarding training and roll out to EOEF members, in November 2021, ILO in partnership with EOEF organized workshops for PEAs to create awareness and pilot test the self-assessment tool. In March 2022, training workshops will be held with EOEF members to discuss fair recruitment, the revised Proclamation, the Code of Code, and the self-assessment tool.

³³ ILO (2022) Assessment of the capacity and practices of overseas Private Employment Agencies in Ethiopia (forthcoming).

▶ Section III: Empowering and Protecting Workers

Introduction

Migrant workers who are well informed about their rights and obligations prior to engaging with recruiters are less vulnerable to being lured into labour exploitation. Trade unions, civil society organizations and the media have a recognized capacity to empower prospective migrant workers about labour rights and fair recruitment.

This section covers two promising practices to empower migrant workers; one from Guatemala where trade unions included attention to Covid-19 and fair recruitment in their outreach to prospective migrant workers, and the other from Pakistan, where trade unions, community based organizations and the media targeted prospective migrant workers in high-migration districts with fair recruitment messages.

The resources section also features a link to the *global recruitment advisor* which is a global, online recruitment and employment review platform that was initiated by the International Trade Union Confederation (ITUC) and which gives potential workers easy access to information about recruitment agencies and workers' rights when they begin looking for jobs.

T. Guatemala – Outreach through trade unions including attention to COVID-19

In the period 2019-2020, the Guatemalan Autonomous Popular Union Movement and the Global Unions of Guatemala developed, validated and implemented a strategy on labour migration and fair recruitment. It included the development of a guide aimed at supporting unions in defending and promoting labour rights, as well as the obligations that are contracted in an employment relationship, including with regards to recruitment. The guide was developed from the perspective of the ILO GPOG covering all workers, including migrant workers. Due to the impact of the COVID-19 pandemic, an Annex was added on prevention and mitigation of COVID-19 at the workplace.

A socialization, dissemination and training process was carried out presenting the guide to a total of 200 union representatives, and analyzing and reflecting on its content, documenting relevant points, shared experiences and recommendations for future actions, thus strengthening the advocacy by trade union organizations on recruitment matters in Guatemala.

Proof of impact/progress

Importantly, the trade union organizations in Guatemala reaffirmed their commitment to promote and defend the labour rights of not only national workers but also migrant workers. This included the signing of the bi-national Trade Union Agreement for the Defence of Decent Work and Equitable Hiring for Migrant Workers of the Mexico-Guatemala Corridor.

The guide that follows from this commitment was prepared in a simple language for ease of communication by union organizations and workers themselves and is being used to reach out to migrant workers.

Other promising features

Potential for replication or extension:

Both the methodology used and the content of the guide could be adapted and replicated in other countries, particularly where the Inter-Union Committee for the Labour Rights of Migrants exists (i.e. Mexico, El Salvador, Honduras, Nicaragua, Costa Rica and Panamá).

Relevance

The Guide on decent work and fair recruitment and its annex on Covid-19 address topics of interest to trade union organizations and workers. It also includes a specific section related to fair recruitment aimed at migrant workers, thus seeking to make said topic part of the trade union agenda in Guatemala.

U. Raising Pakistani migrant workers' awareness of their right to fair recruitment

Emigration regulators in Pakistan view a more aware migrant workforce as crucial for protection from recruitment abuse. Within this context, the REFRAME Pakistan project engaged with the Pakistan Workers Federation (PWF), two civil society organizations and a group of influential media persons developed knowledge products and trained trainers (i.e. 25 briefing officers of the Bureau of Emigration and Overseas Employment (BEOE) and the National Vocational and Technical Training Commission (NAVTTTC), staff of 30 community centers, 60 community change makers, 71 journalists) to cascade information and raise awareness on fair recruitment in the most common communities of origin of migrant workers in Pakistan. These knowledge products were written in simple language and include attention to employment contract terms, rights and responsibilities, and complaint mechanisms, and are aimed at empowering migrant workers and reducing the risk of recruitment irregularities.

Proof of impact/progress

Under the initiative, the awareness of thousands of (prospective) migrant workers has been raised on fair recruitment and safe migration as follows:

Following training of trainers held in 2019, PWF disseminated an information booklet on fair recruitment and safe migration by convening information sessions at community and trade union forums, directly educating 4,500 potential/returned migrant workers and trade union members. In addition, thousands of community change makers were exposed to these materials through social media and the PWF website. In addition, PWF established 30 resource centres at its district offices to provide orientation and referral services to the intending/prospective migrant workers.

Following training in 2019, five local partner organizations in Multan, Bahawalpur, Sialkot, Mardan and Swabi and 60 community change makers have cascaded awareness on fair recruitment and safe migration to more than 11,318 intending/returned migrant workers and their families and 825 community leaders. Over 89,000 persons were reached through word of mouth, social media and community based organizations.

71 journalists/media influencers (including editors, bureau chiefs and senior reporters) were trained on improving research and reporting on fair recruitment and forced labour. More than 35 quality stories/news articles have been produced and published in the national media since the training.

Training of briefing officers of BEOE and NAVTTTC provided the opportunity to help around 2,000-2,500 departing migrant workers per day with accurate information on fair recruitment and safe migration.

Other promising features

Participation and representation

The practice provided the opportunity to directly interact with prospective, intending and returned migrant workers and benefit from their active participation.

Relevance

Migrant workers who were reached through the activities under this practice expressed the importance of continuing them as they continue to be relevant for future prospective migrants.

Efficiency

The strategy to engage with workers' representatives and community change makers/leaders helped spread the information extensively, and has resulted in decisions on labour migration now being taken at family level, and following family dialogue. This enhanced thoroughness in decision-making may contribute to a reduced risk of abuse of migrants at the recruitment stage.

Sustainability

Staff of the Center for Excellence in Journalism (CEJ) and community representatives have acquired sound institutional capacity, resource materials and tools to continue cascading information on fair recruitment in the future.

V. Establishment of the National Union of Malagasy Domestic Workers (SENAMAMA)

The National Union of Malagasy Domestic Workers (SENAMAMA) was officially created on 4 September 2019 by two former migrant domestic workers aspiring to offer Malagasy workers better working conditions, by defending their rights and providing a platform for their voices.

It was during their overseas employment experience that the founding members began to carry out advocacy actions to advance workers' rights and build their network, including with the International Labour Organization (ILO) and the International Domestic Workers Federation (IDWF). Upon their return to Madagascar, the founding members were determined to capitalize on the experience and knowledge gained on workers' rights from both the ILO and the IDWF by creating the SENAMAMA trade union. Within the framework of the EU-funded REFRAME project, the union benefited from the support and guidance of the ILO in collaboration with the IDWF, notably through capacity building workshops, organizational support, and support in terms of communication tools and working equipment.

In Madagascar, domestic work remains a precarious occupation, poorly protected by current law. The majority of domestic workers are women and are often in vulnerable situations, including high risk of violence and abuse, sexual harassment or rape. The sector is still characterised by informality and working conditions that fall below the ILO minimum standards. For example, domestic workers are among the lowest paid, earning between US\$10 and US\$25 per month.

The majority of migrant workers from Madagascar work in the domestic worker sector. Kuwait, the Kingdom of Saudi Arabia, and Lebanon are among the top destinations in this sector, even though the Government of Madagascar considers them "high risk countries" and issued a suspension decree targeting these destinations in 2013. Driven by poverty and lured by job opportunities and higher wages in these countries, hundreds of young Malagasy women still leave the country each year despite the ban being in place. Through their migration experience, the founding members of the union are familiar with the risks, challenges and abuses faced by Malagasy migrant domestic workers. Yet, because of their migration abroad, they have also experienced the critical importance of organizing domestic workers to protect and promote their rights.

It is within this frame of reference that the union aims to organize, inform and protect domestic workers in Madagascar or abroad, including those departing or returning, through advice, advocacy and representation in policy-oriented discussion and dialogues and advocacy platforms.

Proof of impact/progress

Under the initiative, Despite the restrictions caused by the COVID-19 pandemic, the SENAMAMA union has been active in the following areas:

- ▶ The organization took part in the process of revising the labour code and aligning it with the Domestic Workers Convention, 2011 (No. 189). In particular, the union contributed to the definition of the term "domestic worker" and the introduction of a standard contract.
- ▶ Alongside the ILO, the union supported the government of Madagascar in the repatriation of more than 300 migrant workers from Kuwait, the Kingdom of Saudi Arabia and Lebanon, at the beginning of the COVID-19 health crisis.
- ▶ The union has recruited more than 2,000 members in 3 regions of the country (Analamanga, Vakinankaratra and Haute Matsiatra).

SENAMAMA's long-term goal is to enable domestic workers to acquire sufficient capacity and access to the relevant spaces to advocate for the protection of their rights, both in Madagascar and abroad, and to be able to influence policy discussions in areas that directly affect them.

In addition, following its first National Congress in June 2021, SENAMAMA was able to define its objectives and establish its action plan for 2021 - 2025. The main objectives identified are to increase the number of domestic workers registered with the National Social Security Fund and to raise awareness among employers regarding the affiliation of domestic workers to health coverage schemes.

Other promising features

Participation and representation

Although the union's activities were severely restricted by the crisis linked to the COVID-19 pandemic, within two years the organization was able to carve out a place amongst other actors working to promote decent work in the country, and is regularly involved in tripartite dialogues and discussions alongside the government, employers and other trade union organizations.

In particular, the union is working closely with the Union of Autonomous Trade Unions of Madagascar (USAM) to assist and support domestic workers who encounter problems in their workplace. This represents an important step forward for this vulnerable group of workers, who historically have had no possibility of remedy against abuse.

Relevance

Since 2013, there has been a suspension of exit visas for migrant workers and a series of restrictions that greatly limit the migration of workers abroad. Domestic workers are particularly affected by these measures. The Malagasy government has since ratified the Migrant Workers Convention (No. 143), the Private Employment Agencies Convention (No. 181), and the Domestic Workers Convention (No. 189), as well as the protocol to Convention No. 29. Since 2019, the government has undertaken a reform of the labour code, which takes into account its new commitments. With regard to labour migration, an improvement in the exit visa application processes for migrant workers is expected, focusing on transparency and administrative efficiency. In addition, a new law on private employment agencies, strengthening state regulation and improving their professionalism, and the finalization of Bilateral Labour Agreements. These new provisions will allow the lifting of restrictions on labour migration and, consequently, to ensure better monitoring for more protection of migrant workers. In this context, the SENAMAMA union will play a crucial role in informing and guiding these new departures.

Epilogue

The promising practices described in this compendium show a variety of ways in which workers, employers and governments can all contribute to fair recruitment. While governments can create an enabling environment for fair recruitment through legal reform, comprehensive policies and strengthened law enforcement, businesses can show the way through sector wide codes of conduct and due diligence throughout value chains, while empowered workers are less vulnerable to recruitment irregularities.

The diverse range of described interventions by a variety of organizations and covering a range of sectors and countries, demonstrate the enormous potential to advance – together - towards fair recruitment across the world.

Where recruitment practices - nationally and across borders - are grounded in labour standards, are developed through social dialogue, and where they ensure gender equality, sound conditions are in place to achieve fair recruitment.

It is hoped that this compendium of promising practices will prompt replication by many, and that it will spur further innovation and opportunities for documentation and sharing, and a further expansion in the body of knowledge of what works in tackling abusive recruitment.

▶ Section IV: Resources on Fair Recruitment

The “ILO General Principles and Operational Guidelines for Fair Recruitment and definition of recruitment fees and related costs” offer a comprehensive overview of relevant international labour standards, UN standards and other standards pertaining to fair recruitment in its Appendix. What follows in the below therefore are the most prominent sections of the main instruments only. For further detailed reading, the user of this compendium is advised to consult the Appendix to the GPOG.

Prominent Sections of Selected International Labour Standards

Private Employment Agencies Convention, 1997 (No. 181) – Article 7:

- I. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.
- II. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.
- III. A Member which has authorized exceptions under paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.

Private Employment Agencies Recommendation, 1997 (No. 188) - Section II on protection of workers

4. Members should adopt all necessary and appropriate measures to prevent and to eliminate unethical practices by private employment agencies. These measures may include laws or regulations which provide for penalties, including prohibition of private employment agencies engaging in unethical practices.
5. Workers employed by private employment agencies as defined in Article 1.1(b) of the Convention should, where appropriate, have a written contract of employment specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment.
6. Private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike.
7. The competent authority should combat unfair advertising practices and misleading advertisements, including advertisements for non-existent jobs.
8. Private employment agencies should:
 - (a) not knowingly recruit, place or employ workers for jobs involving unacceptable hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
 - (b) inform migrant workers, as far as possible in their own language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment.
9. Private employment agencies should be prohibited, or by other means prevented, from drawing up and publishing vacancy notices or offers of employment in ways that directly or indirectly result in discrimination

on grounds such as race, colour, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation or membership of a workers organization.

10. Private employment agencies should be encouraged to promote equality in employment through affirmative action programmes.
11. Private employment agencies should be prohibited from recording, in files or registers, personal data which are not required for judging the aptitude of applicants for jobs for which they are being or could be considered.
12.
 - (1) Private employment agencies should store the personal data of a worker only for so long as it is justified by the specific purposes for which they have been collected, or so long as the worker wishes to remain on a list of potential job candidates.
 - (2) Measures should be taken to ensure that workers have access to all their personal data as processed by automated or electronic systems, or kept in a manual file. These measures should include the right of workers to obtain and examine a copy of any such data and the right to demand that incorrect or incomplete data be deleted or corrected.
 - (3) Unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, private employment agencies should not require, maintain or use information on the medical status of a worker, or use such information to determine the suitability of a worker for employment.
13. Private employment agencies and the competent authority should take measures to promote the utilization of proper, fair and efficient selection methods.
14. Private employment agencies should have properly qualified and trained staff.
15. Having due regard to the rights and duties laid down in national law concerning termination of contracts of employment, private employment agencies providing the services referred to in paragraph 1(b) of Article 1 of the Convention should not:
 - (1) prevent the user enterprise from hiring an employee of the agency assigned to it;
 - (2) restrict the occupational mobility of an employee;
 - (3) impose penalties on an employee accepting employment in another enterprise.

Forced Labour Protocol, 2014 (P029) - Article 2 (d) and (e)

Measures to be taken for the prevention of forced or compulsory labour shall include:

- protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process
- supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour

Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

Members should take the most effective preventive measures, such as (*see section 4 (b), (i), (j)*):

- targeted awareness-raising campaigns, especially for those who are most at risk of becoming victims of forced or compulsory labour, to inform them about how to protect themselves against fraudulent or abusive recruitment and employment practices, their rights and responsibilities at work, and how to gain access to assistance in case of need
- promotion of coordinated efforts by relevant government agencies with those of other States to facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies

- guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked

...Including specific measures to prevent abuses and investigate fraudulent practices of private employment agencies and abolish informal labour recruitment to (from section 8):

- ensure that recruitment fees or costs are not charged directly or indirectly to workers
- require transparent and written contracts that clearly explain terms of employment and conditions of work, in a language understood by the worker
- establish adequate and accessible complaint mechanisms
- impose adequate penalties
- implement mechanisms for the effective regulation and monitoring of these services
- provide support to businesses to identify, prevent and mitigate the risks of forced labour in their operations or in products, services or operations to which they may be directly linked

II. Other Prominent ILO Resources

ILO General Principles and Operational Guidelines for Fair Recruitment (GPOG) and definition of recruitment fees and related costs

The GPOG lists in an Appendix a comprehensive range of International Labour Standards and other standards that it draws from. The GPOG include the following 13 principles for fair recruitment:

1. Recruitment should take place in a way that respects, protects and fulfills internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation.
2. Recruitment should respond to established labour market needs, and not serve as a means to displace or diminish an existing workforce, to lower labour standards, wages, or working conditions, or to otherwise undermine decent work.
3. Appropriate legislation and policies on employment and recruitment should apply to all workers, labour recruiters and employers.
4. Recruitment should take into account policies and practices that promote efficiency, transparency and protection for workers in the process, such as mutual recognition of skills and qualifications.
5. Regulation of employment and recruitment activities should be clear and transparent and effectively enforced. The role of the labour inspectorate and the use of standardized registration, licensing or certification systems should be highlighted. The competent authorities should take specific measures against abusive and fraudulent recruitment methods, including those that could result in forced labour or trafficking in persons.

6. Recruitment across international borders should respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and destination, and internationally recognized human rights, including the fundamental principles and rights at work, and relevant international labour standards. These laws and standards should be effectively implemented.
7. No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers.
8. The terms and conditions of a worker's employment should be specified in an appropriate, verifiable and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations, employment contracts and applicable collective agreements. They should be clear and transparent, and should inform the workers of the location, requirements and tasks of the job for which they are being recruited. In the case of migrant workers, written contracts should be in a language that the worker can understand, should be provided sufficiently in advance of departure from the country of origin, should be subject to measures to prevent contract substitution, and should be enforceable.
9. Workers' agreements to the terms and conditions of recruitment and employment should be voluntary and free from deception or coercion.
10. Workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment.
11. Freedom of workers to move within a country or to leave a country should be respected. Workers' identity documents and contracts should not be confiscated, destroyed or retained.
12. Workers should be free to terminate their employment and, in the case of migrant workers, to return to their country. Migrant workers should not require the employer's or recruiter's permission to change employer.
13. Workers, irrespective of their presence or legal status in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred.

The definition of recruitment fees and related costs that accompanies the GPOG

The terms '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.

Recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits.

The recruitment fees and related costs considered under this definition should not lead to direct or indirect discrimination between workers who have the right to freedom of movement for the purpose of employment, within the framework of regional economic integration areas.

ILO Multilateral Framework on Labour Migration (MLFLM) (2006)

The MLFLM contains non-binding principles and guidelines for a rights based approach to labour migration, including in relation to recruitment. Section 13 states:

Governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188). The following guidelines may prove valuable in giving practical effect to the above principle:

- 13.1. providing that recruitment and placement services operate in accordance with a standardized system of licensing or certification established in consultation with employers' and workers' organizations;
- 13.2. providing that recruitment and placement services respect migrant workers' fundamental principles and rights;
- 13.3. ensuring that migrant workers receive understandable and enforceable employment contracts;
- 13.4. providing arrangements to ensure that recruitment and placement services do not recruit, place or employ workers in jobs which involve unacceptable hazards or risks or abusive or discriminatory treatment of any kind and informing migrant workers in a language they understand of the nature of the position offered and the terms and conditions of employment;
- 13.5. working to implement legislation and policies containing effective enforcement mechanisms and sanctions to deter unethical practices, including provisions for the prohibition of private employment agencies engaging in unethical practices and the suspension or withdrawal of their licenses in case of violation;
- 13.6. consider establishing a system of protection, such as insurance or bond, to be paid by the recruitment agencies, to compensate migrant workers for any monetary losses resulting from the failure of a recruitment or contracting agency to meet its obligations to them;
- 13.7. providing that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers;
- 13.8. providing incentives for recruitment and placement services that meet recognized criteria for good performance.

ILO brief on COVID-19 and recruitment

At: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_748839.pdf

ILO Good Practices Database on labour migration including fair recruitment

At: https://www.ilo.org/dyn/migpractice/migmain.listPractices?p_theme=13

III. Prominent UN resources

Global Compact for safe, orderly and regular migration (GCM)

Objective 6 of the GCM covers 'Facilitating fair and ethical recruitment and safeguard conditions that ensure decent work' and states:

We commit to review existing recruitment mechanisms to guarantee that they are fair and ethical, and to protect all migrant workers against all forms of exploitation and abuse in order to guarantee decent work and maximize the socioeconomic contributions of migrants in both their countries of origin and destination. To realize this commitment, we will draw from the following actions:

a) Promote signature, ratification, accession and implementation of relevant international instruments related to international labour migration, labour rights, decent work and forced labour

b) Build upon the work of existing bilateral, subregional and regional platforms that have overcome obstacles and identified best practices in labour mobility, by facilitating cross- regional dialogue to share this knowledge, and to promote the full respect for the human and labour rights of migrant workers at all skills levels, including migrant domestic workers

c) Improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers in order to prevent debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry

d) Establish partnerships with all relevant stakeholders, including employers, migrant workers organizations and trade unions, to ensure that migrant workers are provided written contracts and are made aware of the provisions therein, the regulations relating to international labour recruitment and employment in the country of destination, their rights and obligations, as well as on how to access effective complaint and redress mechanisms, in a language they understand

e) Enact and implement national laws that sanction human and labour rights violations, especially in cases of forced and child labour, and cooperate with the private sector, including employers, recruiters, subcontractors and suppliers, to build partnerships that promote conditions for decent work, prevent abuse and exploitation, and ensure that the roles and responsibilities within the recruitment and employment processes are clearly outlined, thereby enhancing supply chain transparency

f) Strengthen the enforcement of fair and ethical recruitment and decent work norms and policies by enhancing the abilities of labour inspectors and other authorities to better monitor recruiters, employers and service providers in all sectors, ensuring that international human rights and labour law is observed to prevent all forms of exploitation, slavery, servitude, and forced, compulsory or child labour

g) Develop and strengthen labour migration and fair and ethical recruitment processes that allow migrants to change employers and modify the conditions or length of their stay with minimal administrative burden, while promoting greater opportunities for decent work and respect for international human rights and labour law

h) Take measures that prohibit the confiscation or non-consensual retention of work contracts, and travel or identity documents from migrants, in order to prevent abuse, all forms of exploitation, forced, compulsory and child labour, extortion and other situations of dependency, and to allow migrants to fully exercise their human rights

i) Provide migrant workers engaged in remunerated and contractual labour with the same labour rights and protections extended to all workers in the respective sector, such as the rights to just and favourable conditions of work, to equal pay for work of equal value, to freedom of peaceful assembly and association, and to the highest attainable standard of physical and mental health, including through wage protection mechanisms, social dialogue and membership in trade unions

j) Ensure migrants working in the informal economy have safe access to effective reporting, complaint, and redress mechanisms in cases of exploitation, abuse or violations of their rights in the workplace, in a manner that does not exacerbate vulnerabilities of migrants that denounce such incidents and allow them to participate in respective legal proceedings whether in the country of origin or destination

k) Review relevant national labour laws, employment policies and programmes to ensure that they include considerations of the specific needs and contributions of women migrant workers, especially in domestic work and lower-skilled occupations, and adopt specific measures to prevent, report, address and provide effective remedy for all forms of exploitation and abuse, including sexual and gender-based violence, as a basis to promote gender-responsive labour mobility policies

l) Develop and improve national policies and programmes relating to international labour mobility, including by taking into consideration relevant recommendations of the ILO General Principles and Operational Guidelines for Fair Recruitment, the United Nations Guiding Principles on Business and Human Rights, and the IOM International Recruitment Integrity System (IRIS).

United Nations Guiding Principles on Business and Human Rights, 2011

At: https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

IRIS Code - International Organization for Migration, International Recruitment Integrity System Code of Conduct

At: https://iris.iom.int/sites/iris/files/documents/Factsheet1-Overview-of-IRIS_2020.pdf

IV. Other Prominent Sources on Fair Recruitment

The WEC Code of Conduct sets out acceptable standards of professional practice to which private employment services are committed to and expected to operate. At: https://wecglobal.org/uploads/2019/07/2017_WEC_Code-Conduct.pdf

World Employment Confederation Database of Social Innovating Stories collects cases on how the private employment industry is supporting fair recruitment and protection of migrant workers. The database contains cases such as:

- The work of the Indian Staffing Federation to support migrant workers during the COVID-19 Pandemic
- REC – the UK’s recruitment industry body – efforts to protect the UK healthcare system during COVID-19
- Manpower Germany’s “Welcome Centres” to support refugees to assess their employability, receive training, and aid their job search
- In Venezuela, a cooperation between PES and PEAs support Venezuelan refugees to find work in Chile

The WEC Compendium of voluntary initiatives promoting ethical recruitment practices lists 42 best practices from the industry, very much tailored to the creation of quality and a level playing field. At https://wecglobal.org/uploads/2019/07/WEC_Compendium-Practices-Ethical-Recruitment.pdf

ITUC Recruitment advisor

Recruitment Advisor is a global recruitment and employment review platform that gives potential workers easy access to information about recruitment agencies and workers' rights when they begin looking for jobs abroad. The platform was developed collaboratively by governments, migrant workers associations and unions to evaluate agencies practices and build trust amongst the working communities. The Recruitment Advisor platform currently operates in Bahrain, Hong Kong (China), Indonesia, Kenya, Nepal, the Philippines and Sri Lanka.

At: <https://www.recruitmentadvisor.org>

Institute for Human Rights & Business (IHRB) - The Dhaka Principles for Migration with Dignity (2012)

At: <https://www.ihrb.org/dhaka-principles/downloads-translations>

Responsible Recruitment Toolkit (RRT)

At: www.responsiblerecruitmenttoolkit.org

Verité, Fair Hiring Toolkit and Sample Code of Conduct Provisions

At :<https://www.verite.org/help-wanted/fair-hiring-toolkit/>

and <https://www.verite.org/help-wanted/fair-hiring-toolkit/for-brands/1-improving-codes-of-conduct-and-company-policies/>

Compendium of promising practices to advance fair recruitment of (migrant) workers

In 2020, the ILO reviewed progress made since the launch of the FRI a good five years earlier, by conducting a stocktaking exercise aimed at documenting promising practices towards fair recruitment, now documented in this Compendium. The documentation of the promising practices in this compendium is aimed to contribute to enhancing global knowledge on national and international recruitment processes. It is hoped that the documented practices prompt replication in other countries or regions, adaptation for context and cross-fertilization with other emerging practices, and further advancement towards fair recruitment. The documented promising practices in this compendium are supplemented by a resource section that offers links to core instruments and organizations involved in fair recruitment, and that a number of the practices that are featured in this compendium relate to or draw from.



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