



International  
Labour  
Organization

Integrated Programme  
**FAIR**  
of Fair Recruitment

A contribution to:

► Fair Recruitment  
Initiative

# ► Fair recruitment Roadmap

A guide for national action







▶ **Fair recruitment Roadmap**

A guide for national action



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ISBN: 9789220406908 (Print); ISBN: 9789220406915 (Web PDF)

ISBN 9789220391839 (web PDF)

**Also available in French:** *Feuille de route pour le recrutement équitable : Guide pour l'action nationale*, ISBN 9789220406922 (Imprimé), 9789220406939 (PDF Web) and Spanish: *Hoja de ruta para la contratación equitativa: Guía para la acción nacional*, ISBN 9789220406946 (Impreso), 9789220406953 (PDF web).

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## ► Foreword and acknowledgment

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The development of this Roadmap was initiated at the request of the ILO Fair Recruitment Initiative Advisory Committee, notably supported by Mexico and Italy as co-chairs, to guide countries in achieving fair recruitment practices. This guide is the result of a comprehensive participatory process, with valuable contributions from numerous Advisory Committee members, reflecting a diverse range of perspectives and expertise.

The Roadmap offers a step-by-step approach and a broad menu of actionable interventions to implement fair recruitment at national level. These interventions are designed not only for governments but also for private recruitment agencies, trade unions, the media, educational institutions, and other stakeholders. Grounded on the ILO general Principles and Operational Guidance for Fair Recruitment, and the International Labour Standards that underpin them, this makes the Roadmap a valuable addition to the global knowledge base on fair recruitment.

Responding directly to the Advisory Committee members' request, this Roadmap aims to systematize existing knowledge, experiences, and practices and translate these into concrete steps and measures that national policymakers and stakeholders can jointly take to develop national action plan for fair recruitment. This includes the identification of priorities, setting specific targets and milestones, and establishing mechanisms for implementation and monitoring. The Roadmap is meant to be piloted and used to support national-level action.

Supported by the Integrated Programme on Fair Recruitment (FAIR – Phase III) funded by the Swiss Development Cooperation, this Roadmap was drafted by Hans van de Glind, under the overall guidance of Maria Gallotti, ILO Labour Migration Specialist.

The ILO would like to extend thanks to the numerous ILO staff who provided invaluable inputs to this Roadmap (in alphabetical order): Nilim Baruah, Mariana Beheran, Mélanie Belfiore, Francesco Carella, Ryszard Cholewinski, Neha Choudhary, Noortje Denkers, Kenza Dimechkie, Laura Greene, Sophia Khagan, Isabelle Kronisch, Katerine Landuyt, Henrik Moller, Alix Nasri, Favour Offia, Vanessa Pocasangre, Victor Hugo Ricco, Gianni Rosas, Gaëla Roudy Fraser, Heloise Ruaudel, and Aurelia Segatti. The Advisory Committee chairs and co-chairs and all members have provided invaluable inputs and suggestions throughout the drafting process and generously shared experiences and lessons learned. In addition, the Roadmap benefitted from key inputs of members of the FRI Advisory Committee, Giovanni Di Dio, Janet Ortega, Ira Rachmawati, Carmen Voigt, and Stéphanie Winet.

The graphic design of this roadmap was completed by Angélica Mori Tamashiro. The responsibility for any errors or misrepresentation rests solely with the authors.

This Roadmap represents a collaborative and innovative effort to advance fair recruitment practices globally and will serve as a practical and effective tool for all stakeholders committed to promoting fair and ethical recruitment.

## ► Abbreviations and acronyms

ACE	ASEAN Confederation of Employers
ASEAN	Association of South-east Asian Nations
ATUC	ASEAN Trade Union Confederation
AHKMA	Association of Hong Kong Manpower Agencies
BLA	Bilateral Labour Agreement
CEACR	(ILO) Committee of Experts on the Application of Conventions and Recommendations
CEO	Chief Executive Officer
CHRB	Corporate Human Rights Benchmark
COC	Code of Conduct
CSR	Corporate Social Responsibility
ELA	European Labour Authority
EOEAF	Ethiopian Overseas Employment Agencies Federation
ESB	Employment Standards Branch (of Manitoba Province, Canada)
ESG	Environment, Social and Governance criteria
ETI	Ethical Trading Initiative
FAR	Federal Acquisitions Regulation (of the USA)
FPRW	Fundamental Principles and Rights at Work
FRI	(ILO) Fair Recruitment Initiative
GBSN	Global Business School Network
GCM	Global Compact for Safe, Orderly and Regular Migration
GLAA	Gangmasters Licensing Act against Abuse of foreign labourers
GREPALMA	Palm Growers Association of Guatemala
GRI	Global Reporting Initiative
GSEM	Geneva School of Economics and Management
HRC	Human Rights Coalition
HRW	Human Rights Watch
ILO	International Labour Organization
ILO GPOG	ILO General Principles and Operational Guidelines for Fair Recruitment
IOM	International Organization for Migration
IOE	International Organization of Employers
ITUC	International Trade Union Confederation

KNOMAD	Global Knowledge Partnership on Migration and Development (by ILO and World Bank)
MFA	Migrant Forum Asia
MRC	Migrant Resource Centre
MRVRS	Migrants Rights Violation Reporting System
NGO	Non-governmental organization
OAS	Organization of American States
OASIS	Belgium's Social Inspection Services Anti-Fraud Organization
PEA	Private Employment Agency
PES	Public Employment Services
POEA	Philippines Overseas Employment Agency
PRA	Private Recruitment Agency
RBA	Responsible Business Alliance
RCP	Regional Consultative Processes on Migration
RLI	Responsible Labour Initiative
SDG	UN Sustainable Development Goal
SHARP	Society of HK-Accredited Recruiters of the Philippines
SMART	Specific, Measurable, Achievable, Relevant and Time-bound indicators
SSF	Sedex Stakeholder Forum
TVPRA	USA's Trafficking Victims Protection Reauthorization Act
UAE	United Arab Emirates
UAERA	Ugandan Association of External Recruitment Agencies
UN	United Nations
UNAM	Universidad Nacional Autónoma de México
UNGP	UN General Principles on Business and Human Rights
UNPRI	United Nations Principles for Responsible Investment
UK	United Kingdom of Great Britain and Northern Ireland
USA	United States of America
USD	United States Dollar
WEC	World Employment Confederation
WTO	World Trade Organization

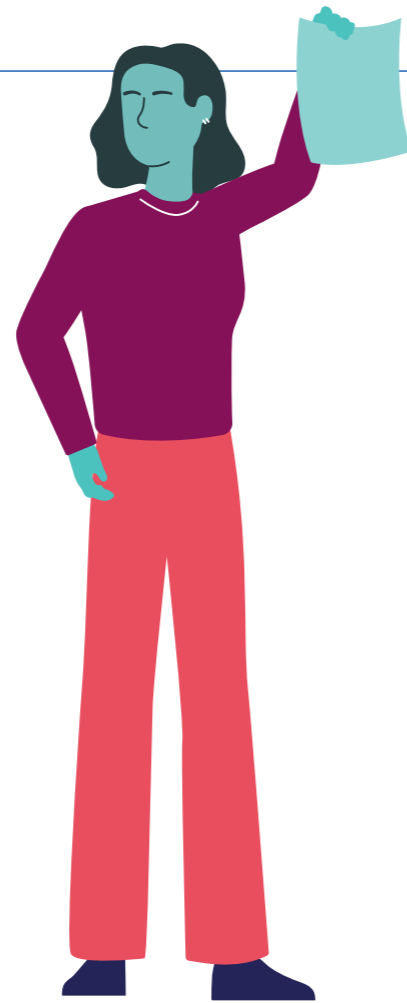
## ► Target group and aims

This Roadmap for fair recruitment targets national policy makers and stakeholders involved in 'recruitment' of workers, including migrant workers, with a view to ensuring fair recruitment, free from abuse, including in the realm of forced labour and trafficking for labour exploitation. In line with the ILO General Principles and Operational Guidelines for Fair Recruitment, the guide applies to recruitment within (of both nationals, migrant and refugee workers) and across international borders. Recognizing the higher risks faced by migrant workers, particularly when recruited across international borders, the guide will make specific reference to migrant workers when relevant.<sup>1</sup>

The Roadmap responds to the need for guidance to countries on addressing recruitment related abuse and achieving fair recruitment through a comprehensive, integrated, national approach, as expressed by the Mexican and Italian co-chairs of the advisory committee to the ILO Fair Recruitment Initiative (FRI).

Recruitment-related abuse can have multiple consequences, and may include the following:

- Recruitment abuse **affects the lives of millions of (migrant) workers** and their families and compromises the amount of remittances migrant workers may be able to send home, as well as the amount of savings (migrant) workers may spend at destination.
- It also **compromises the obligations of States under the Sustainable Development Goals** (especially target 8.7 on freedom from forced labour and human trafficking), and **States' obligations under the ILO fundamental principles and rights at work** (and especially those pertaining to recruitment related debt bondage that may result in situations of forced labour) and may expose flaws in countries' rule of law and enforcement capacity.
- Abusive recruitment results in **ineffective skills-matching** and **damages the reputation of involved companies**, be it employers of (migrant) workers, private employment and recruitment agencies, placement agencies or labour supply companies. Increasingly complex supply chains and subcontracting modalities have enhanced the risk of association of any company with situations of labour abuse and even forced labour in cases where fair recruitment modalities can not be guaranteed throughout supply chains.



<sup>1</sup> The use of the term "(migrant) workers", with the word migrant in parentheses, aims at highlighting that all workers (migrants and non-migrants) are covered by the scope of this guide, but that special consideration should be given to migrant workers as they might face specific challenges and vulnerabilities in relation to recruitment processes and practices. The guide will use the terms "migrant workers" to refer to any action or practice that is only applicable or relevant to migrant population.

## Examples of recruitment related abuses may include (non-exhaustive list):



Charging **recruitment fees** from (migrant) workers.



Illegal **wage deductions** (to recover recruitment fees and related costs).



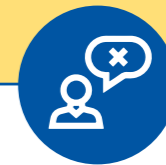
Deception about the nature and **conditions** of work.



**Debt bondage** linked to repayment of recruitment fees and related costs.



Use of **force, violence, or threats** in recruitment.



Placement without consent into **exploitative work**.



Prolonged **retention of identity documents** (including passports).



**Prolonged entrapment** of (migrant) workers with employers (in absence of contract termination clauses and/or corresponding legislation).



Despite widely reported recruitment abuse across the globe,<sup>2</sup> there is potential to prevent, address and repair it. In recent times, additional international standards, policy instruments and guidance have been adopted, including the UN *Palermo Protocol*<sup>3</sup> on trafficking in persons (2000), the UN Global Compact (2000), the UN Guiding Principles on Business and Human Rights (UNGP) (2011), the ILO forced labour protocol P029 (2014), the ILO General Principles and Guidelines for Fair Recruitment (ILO GPOG) (2016) and the accompanying definition of recruitment fees and costs (2018), and the UN Global Compact for safe, orderly and regular migration (GCM) (2018). These global instruments offer guidance to address recruitment abuse.

In turn, governments are enhancing their regulations and enforcement mechanisms to reflect their commitments to these newly adopted instruments; Global companies pursue human rights due diligence in efforts to rid their supply chains of unfair recruitment practices; trade unions and civil society have embarked on efforts to monitor and document business practices by recruitment agencies, while some business initiatives are beginning to provide proof-of-concept of viable models that make fair recruitment a reality.

Much can be learnt from these different stakeholder initiatives, and the global standards, policy instruments and guidance that underpin them.



**For reflection:**

Due diligence refers to companies' processes to identify, prevent, mitigate and account for how it addresses the adverse human rights impact of its own activities and those in association with business relationships.

The process should include assessing the actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

(See UN GP (principle 13) and ILO GPOG (definitions and terms))

This Roadmap is an endeavour to offer step-by-step guidance to core stakeholder groups at national level that want to commit to fair recruitment of workers, including migrant workers. It takes the ILO GPOG as starting point – which, importantly, are underpinned by international labour standards and related instruments as well as UN conventions (see Annex A and B) – and draws from the most relevant global policy instruments and documented learning from core stakeholders, as covered in reporting to and by the ILO Committee of experts on the application of conventions and recommendations; global and regional progress reports; documented promising practices; thematic papers; and interviews with core informants.

The Roadmap for fair recruitment is a guide that aims to answer questions such as: What does it mean for a given country to implement a fair recruitment initiative at national level? What are the issues to be understood and considered? Who should be consulted and when? What practical steps would need to be put in place and how could targets be established? How can countries move the fair recruitment agenda forward at national level and become fair recruitment champions?

As national contexts differ, there is however no one best solution. Therefore, this Roadmap offers pointers, illustrations, examples, and promising practices for consideration by relevant policy makers and stakeholders in three parts.

In **Part 1**, this guide offers conceptual clarity on what is fair recruitment, who are relevant stakeholders to engage with for fair recruitment, and why governments and companies should address unfair recruitment.

In **Part 2**, this guide describes matters of process in developing joined up action towards fair recruitment in a step-by-step manner. This part includes attention to inclusive mobilization of relevant stakeholders, analysis and reaching a common understanding of the local situation, pre-conditions for successful implementation, considerations pertaining to strategic entry points, consultation and decision-making on effective ways forward given the particularities of national contexts, and how to monitor and report progress based on Specific, Measurable, Achievable, Relevant and Time-bound (SMART) indicators.

**Part 3** offers a menu of options to consider in terms of actionable interventions by various stakeholder groups. To the extent possible, these are laced with examples drawn from experiences by relevant stakeholders from across the world and include documented promising practices.

**For reflection:**

*'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.'*

(Global Compact on Migration (GCM), Paragraph 22, under objective 6 on fair recruitment)

<sup>2</sup> See for instance coverage of recruitment related abuse in the *Global estimates of modern slavery: 'Forced labour and forced marriage'* (2022), by ILO, IOM, Walk Free and *'Trafficking in persons report'* (2023), by US Department of State.

<sup>3</sup> Full title: UN Protocol to prevent, suppress and punish trafficking in persons, especially women and children (2000).

# Part 1

## Conceptual matters and reasons for committing to fair recruitment

---

### Summary of content

This part offers conceptual clarity on what is fair recruitment, who are relevant stakeholders to engage with for fair recruitment, and why governments and companies should address unfair recruitment.

This part is divided in the following sections:

- 1.1 Introduction
  - 1.2 What is fair recruitment?
  - 1.3 Who are the actors that may play a role in working towards fair recruitment?
  - 1.4 Why should States – and employers and recruiters within their territory – strive for fair recruitment?
    - 1.4.1 Why should national governments strive for fair recruitment?
    - 1.4.2 Why should enterprises, including private employment agencies, strive for fair recruitment?
-

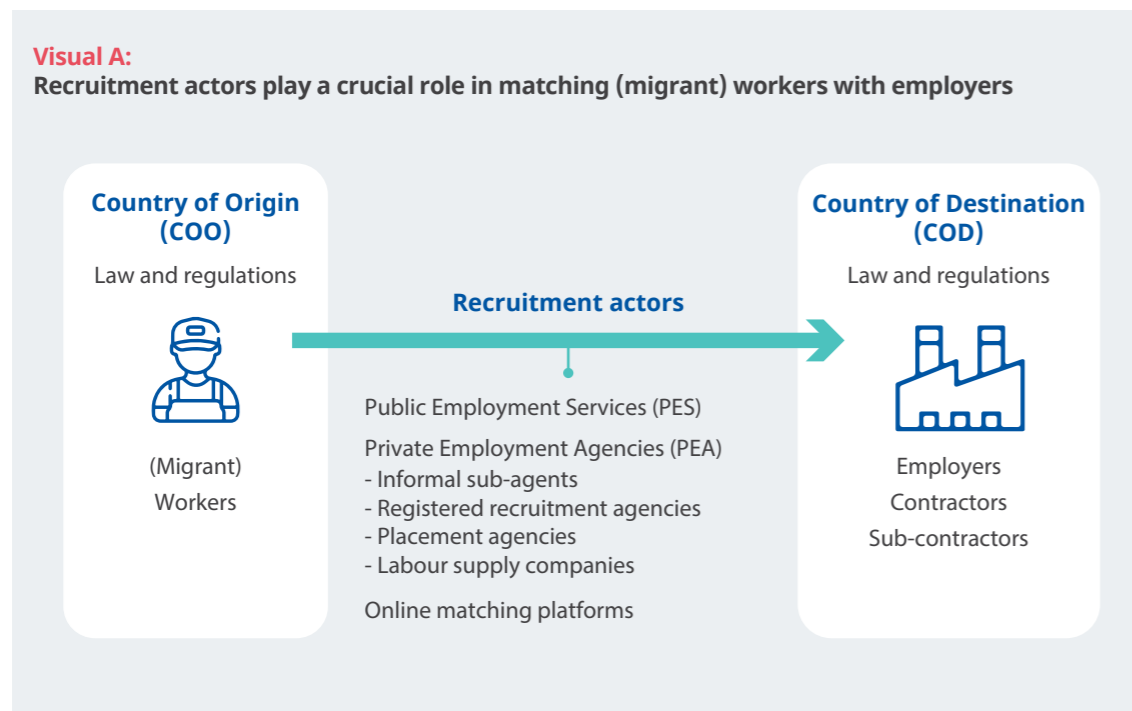
## ► 1.1 Introduction

Over 169 million women and men live and work outside their country of origin according to an ILO estimate for 2019.<sup>4</sup> Many of these workers migrated for work through the services of recruitment agencies.

Public Employment Services (PES) and Private Employment Agencies (PEAs), when appropriately regulated and monitored, play an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers, including migrant workers, in a context of complicated regulations that differ by country – see visual A.

While abusive recruitment can be experienced by any worker, it is migrant workers who are particularly at risk of abuse in recruitment.<sup>5</sup> Among them, women migrant workers may face specific challenges as recruitment may affect them differently from men migrant workers.<sup>6</sup> Evidence also shows that recruitment abuse might be more prevalent in some sectors of the economy such as construction, manufacturing and agriculture (which tend to be dominated by men), but also services and domestic work (which tend to be dominated by women). These sectors are also often those where enforcement of the labour law is weaker or absent.<sup>7</sup>

**Visual A:**  
Recruitment actors play a crucial role in matching (migrant) workers with employers



<sup>4</sup> 'ILO Global estimates on international migrant workers: Results and methodology', ILO (2021).

<sup>5</sup> The forced labour prevalence of adult migrant workers is more than three times higher than that of adult non-migrant workers.

<sup>6</sup> Women migrant workers feature in domestic work and are likely to be coerced through wage non-payment and abuse of vulnerability, while men migrant workers predominate in sectors such as construction and are often coerced through threats of violence and financial penalties. Women are also more likely than men to be subjected to physical and sexual violence and threats against family members (ILO Global estimates of modern slavery (2022)).

<sup>7</sup> 'Domestic workers across the world: Global and regional statistics and the extent of legal protection', ILO (2013).

► When workers migrate through irregular channels and/or with the support of irregular/informal sub-agents who operate outside the regulatory framework, they run an especially high risk of getting trapped in debt and abuse.

While recruitment costs of high-skilled migrant workers tend to be paid by employers, it is common that migrant workers in low-skilled occupations pay recruitment costs themselves, despite regulation against this in many countries. Other common recruitment related abuses may include deception about the nature and conditions of work, contract substitution, prolonged retention of identity documents, illegal wage deductions, placement in non-existing jobs, debt bondage resulting from exorbitant recruitment fees and costs, unfair loans, misuse of a position of power to trap workers longer-term, and threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country. A combination of these abuses may amount to human trafficking and forced labour.

When workers migrate through irregular channels and/or with the support of irregular/informal sub-agents who operate outside the regulatory framework, they run an especially high risk of getting trapped in debt and abuse.

While businesses have a responsibility to ensure fair recruitment resulting in decent work, it is governments who bear the ultimate responsibility for advancing fair recruitment within national borders.<sup>8</sup>

Governments, in consultation with social partners, may develop and advance policies and law for fair recruitment. The development of such policies should be undertaken in a way that respects, protects and fulfils internationally recognized human and labour rights, including the right to be free from abusive recruitment induced forced labour.<sup>9</sup>

<sup>8</sup> See ILO GPOG 'Responsibilities of governments' under operational guidelines, and ILO Private Employment Agencies Convention, 1997 (No. 181), articles 11 and 12.

<sup>9</sup> The ILO Fundamental Principles and Rights at Work include the right to be free from forced labour. The Forced Labour Protocol P029 (2014) which underpins this principle together with the ILO Forced Labour Conventions, states in paragraph 2d: 'The measures to be taken for the prevention of forced or compulsory labour shall include: (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process'.

## ► 1.2 What is fair recruitment?

'Recruitment' of workers includes in its scope the selection, transport, placement into employment and – for migrant workers – return to the country of origin of workers where appropriate.

'Fair' recruitment is recruitment carried out within the law, in line with international labour standards, and with respect for human rights, without discrimination and while protecting workers from abuse.

Further details of what constitutes 'fair recruitment' can be found in the adopted ILO GPOG – that are derived<sup>10</sup> from international labour standards and related instruments as well as UN Conventions and other relevant policy documents – as follows:

### ► Box 1.1. What constitutes fair recruitment and how it is implemented

Fair recruitment is recruitment...	Elaboration
Where <b>workers (including migrants) do not incur costs</b> , neither directly, nor indirectly through salary deductions.  (See <a href="#">ILO GPOG, general principle 7</a> )	This implies that <b>recruitment fees and related costs should be covered by employers</b> or their intermediaries.  (See <a href="#">ILO GPOG, operational guideline 6.2</a> )  Recruitment fees and related costs are itemized for transparency's sake. This will enable the uncovering of illegitimate costs such as those for kickback payments, bribes and tributes.  (See <a href="#">ILO definition of recruitment fees and related costs</a> )
Where (migrant) workers have a <b>clear, detailed, agreed employment contract</b> based on informed consent.  (See <a href="#">ILO GPOG, general principle 8 and 9</a> )	Employment contracts should be in a language the worker can understand, and feature information on a range of items as spelled out in the Annex to the ILO Migration for Employment Recommendation, 1949 (No. 86) – For details, see Part 3 under standard employment contracts.

<sup>10</sup> See Annex A and B for a comprehensive list of ILO and UN standards, instruments and guidance as relevant to fair recruitment.

### ► Box 1.1. (cont.)

Fair recruitment is recruitment...	Elaboration
In line with international labour rights and human rights standards and <b>free from debt bondage and situations of forced labour and trafficking</b> .  (See <a href="#">ILO GPOG, general principle 1, 11, 12</a> )	Any recruited worker should be protected by the ILO fundamental principles and rights at work, including freedom from discrimination in respect of employment and occupation and freedom from forced labour and trafficking <sup>11</sup> such as through: <ul style="list-style-type: none"> <li>• Prolonged retention of personal documents including the passport and ATM-card.</li> <li>• Restriction of movement (e.g., inability to terminate employment, change employer or return to the country of origin due to dependency on a sponsor).</li> <li>• Violence, including psychological pressure.</li> <li>• Threats and intimidation (including to family members).</li> <li>• Abuse of vulnerability (e.g., taking advantage of migrant workers not mastering the language of the destination country).</li> <li>• Overtime work needed to make a minimum wage (e.g., on call 24/7; no day off).</li> <li>• Withholding, deduction or no payment of wages.</li> <li>• Debt and other forms of bondage (e.g., to pay for recruitment costs; bad loans at exorbitant interest for migrant workers; kickbacks for visa trading).</li> <li>• Deception (e.g., Contract substitution, false promises).</li> </ul> (See <a href="#">ILO indicators of forced labour (2012)</a> )

<sup>11</sup> The other fundamental principles and rights at work pertain to the right to freedom of association and collective bargaining, and freedom from child labour.

► **Box 1.1. (cont.)**

Fair recruitment is recruitment...	Elaboration
<p>Where migrant workers are <b>protected from abusive and fraudulent recruitment methods</b> (through protective, clear, and transparent regulation and effective monitoring and enforcement).</p> <p>(See <a href="#">ILO GPOG</a>, general principle 3, 5 and 6)</p>	<p>Such as placement in non-existing jobs, placement with known abusers, placement in unacceptable work, placement with blacklisted employers, placement through visa trading.</p> <p>Recruiters should therefore check on the validity of job offers and employers (abroad), where possible through labour attachés.</p>
<p>Where there is <b>transparency</b> in recruitment and where recruiters and employers abroad are held <b>accountable</b> for the well-being of (migrant) workers.</p> <p>(See <a href="#">ILO GPOG</a>, general principle 4)</p>	<p>All actors in the recruitment chain are registered or licensed for maximum efficiency, lowest possible costs and for purposes of accountability, and so that (migrant) workers can verify the validity of their operations.</p> <p>All actors in supply chains perform due diligence on partner agencies pertaining to fair recruitment.</p> <p>Recruiters stay in contact with the workers they placed into work to ensure their well-being and report to the authorities in case of abuse.</p> <p>(See <a href="#">ILO GPOG</a> operational guideline 4.2, 5.2 and 15)</p>
<p>Where migrant workers have <b>access to justice</b>.</p> <p>(See <a href="#">ILO GPOG</a>, general principle 13)</p>	<p>(Migrant) workers have (easy) access to free, rapid complaint and dispute settlement mechanisms and effective remedies, including compensation – and without fear of retaliatory measures.</p> <p>(See <a href="#">ILO GPOG</a> operational guideline 8.1 and 8.2)</p>
<p>Where the recruitment process is <b>non-discriminatory</b>.</p> <p>(See <a href="#">ILO GPOG</a>, general principle 1 and 4)</p>	<p>Selection of workers for recruitment into specific jobs is based on matching skills and qualifications rather than the willingness (of workers) to pay for recruitment, while the specific characteristics of women and men workers are taken into account to ensure non-discrimination and gender equality.</p>

The ILO GPOG, together with the accompanying definition of recruitment fees and costs, present the most up-to-date internationally negotiated guidance on fair and ethical recruitment. They are underpinned by a range of International Labour Standards and related instruments, UN Conventions, and other relevant policy documents (see the Appendix to the GPOG and Annex A and B below).

According to the ILO definition as adopted in 2018, 'recruitment fees and related costs' refer to 'any fees or costs incurred in the recruitment process in order for (migrant) workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection'. They include fees for the matching of qualified (migrant) workers with employment offers, and a range of related costs pertaining to health (e.g., medical examination, tests, vaccination), insurance (e.g., for life, health, safety, welfare), skills testing, training and orientation, equipment (e.g., tools, uniforms, safety gear), travel and lodging (including the cost of repatriation at the end of employment), and administration (e.g., identity documents, visas, work and residence permits, background checks, legalizing employment contracts). These recruitment fees and costs should not be collected – directly nor indirectly – from (migrant) workers, but rather be paid by employers or their intermediaries.<sup>12</sup> To minimize recruitment fees and costs, and to offer transparency in recruitment, it is important that these fees and costs are itemized and with proof of payment of the various components.

**For reflection:**

ILO definition of recruitment fees and related costs (2018): These refer to 'any fees or costs incurred in the recruitment process in order for (migrant) workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection'.



<sup>12</sup> See operational guideline 6.2 of the ILO GPOG and [www.employerpays.org](http://www.employerpays.org).

## ILO definition of recruitment fees and related costs

### ► Scope of the definition:

The definition recognizes the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment.

### ► A. Recruitment fees:

Payments for recruitment services offered by labour recruiters (public or private); payments made in the case of recruitment of workers with a view to employing them to perform work for a third party; payments made in the case of direct recruitment by the employer; and payments required to recover recruitment fees from workers.

These fees may be one-time or recurring.

### ► B. Related costs:


Related costs are expenses integral to recruitment and placement. When initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process, the following costs should be considered related to the recruitment process:


 Medical costs


 Travel and lodging costs

 Insurance costs

 Administrative costs

 Equipment costs

 Costs for skills and qualifications tests

 Costs for training and orientation

### ► C. Illegitimate, unreasonable and undisclosed costs:

Extra-contractual, undisclosed, inflated or illicit costs are never legitimate.

In order to achieve fair recruitment, it is of crucial importance that ALL relevant stakeholders or actors have a common understanding of what constitutes fair recruitment, including recruitment fees and related costs, and who should cover them.

## ► 1.3 Who are the actors that may play a role in working towards fair recruitment?

### ► Box 1.2. Key actors and their roles in fair recruitment

Actor	Role for fair recruitment (see part 3 for more details)
Governments – in a policy making and law enforcement capacity – including, but not limited to ministries of labour, home affairs (interior), foreign affairs, social affairs and the judiciary, including departments such as labour inspectorates or related authorities, labour attachés, the police, hotline staff, referral services, municipalities.	<ul style="list-style-type: none"> <li>• May initiate or modify national law and regulations for fair recruitment.</li> <li>• May define a national policy for fair recruitment or mainstream fair recruitment into existing policies.</li> <li>• May regulate recruitment processes to ensure fairness and define specific recruitment related violations as punishable offences.</li> <li>• May strengthen law enforcement for fair recruitment, for instance by inspecting for potential abuses and remedial action (including compensation to affected victims).</li> <li>• May ensure that public procurement adheres to principles of fair recruitment.</li> <li>• May sign bilateral and/or multilateral labour agreements that promote regular, orderly, and safe migration pathways, and include attention to achieving fair recruitment.</li> </ul>
Governments as employers of workers.	<ul style="list-style-type: none"> <li>• May ensure that government employees are recruited fairly.</li> <li>• May ensure that government employees who recruit domestic workers do so fairly.</li> </ul>
Governments as employment service providers.	<ul style="list-style-type: none"> <li>• PES may select, recruit and place (migrant) workers fairly.</li> <li>• PES may define and implement partnership and coordination arrangements with private agencies that adhere to fair recruitment processes.</li> </ul>
Private sector employment agencies, including informal sub agents, registered/licensed recruitment agencies, placement agencies, labour supply companies, online platforms.	<ul style="list-style-type: none"> <li>• May offer fair recruitment and placement services to workers, including migrant workers.</li> <li>• May advocate for fair recruitment within associations of employment and recruitment agencies.</li> </ul>

► **Box 1.2. (cont.)**

Actor	Role for fair recruitment (see part 3 for more details)
Employers – Those who employ workers, including through direct recruitment. Employers may vary from small to multi-national size companies. They also include individual employers, such as families who may employ a domestic worker or a farm worker.	<ul style="list-style-type: none"> <li>• May recruit workers directly in a fair manner or rely on registered/licensed recruitment agencies.</li> <li>• May conduct human rights due diligence for fair recruitment throughout their supply chain.</li> <li>• May commit to non-fee payment by workers, and payment of itemized recruitment fees and costs and regular salary payments.</li> <li>• May work with comprehensive and transparent employment contracts in line with core labour rights (including freedom to terminate employment with due notice).</li> <li>• May operate policies against prolonged confiscation of personal documents.</li> <li>• May not impose limitations to freedom of workers unless in order to protect their work safety.</li> <li>• May offer access to grievance and other dispute settlement mechanisms without repercussions, and to appropriate remedies.</li> <li>• May take action to reimburse workers fees that may have been borne by workers during their recruitment.</li> <li>• May use codes of conduct or policy commitments to influence fair recruitment of migrant workers in supply chains.</li> </ul>
Employers' organizations, chambers of commerce and associations of recruitment agencies.	<ul style="list-style-type: none"> <li>• May mobilize and train members for fair recruitment and promote the use of due diligence tools as applicable.</li> <li>• May develop and monitor implementation of a code of conduct for fair recruitment.</li> <li>• May engage social auditors against unfair recruitment.</li> <li>• May engage in social dialogue on fair recruitment.</li> </ul>
Trade unions.	<ul style="list-style-type: none"> <li>• May include fair recruitment provisions in collective bargaining agreements.</li> <li>• May offer awareness raising on fair recruitment to their members and to workers in general (both national and migrants) with a view to enhance knowledge, empowerment and voice.</li> <li>• May monitor the performance of recruitment agencies.</li> <li>• May conduct research on recruitment related violations and model approaches.</li> <li>• May advocate for fair recruitment with decision makers.</li> <li>• May operate hotlines and/or complaint desks.</li> <li>• May offer legal assistance (or referral) to abused workers.</li> </ul>

► **Box 1.2. (cont.)**

Actor	Role for fair recruitment (see part 3 for more details)
Non-governmental organizations.	<ul style="list-style-type: none"> <li>• May offer awareness raising on fair recruitment to (prospective) migrant workers.</li> <li>• May monitor the performance of recruitment agencies.</li> <li>• May conduct research on recruitment related violations and model approaches.</li> <li>• May advocate for fair recruitment with decision-makers.</li> <li>• May operate hotlines and/or complaint desks.</li> <li>• May offer legal assistance (or referral) to abused workers.</li> </ul>
Media – including social media.	<ul style="list-style-type: none"> <li>• May expose recruitment abuse.</li> <li>• May provide background information on the risks of abusive recruitment and fair recruitment alternatives.</li> <li>• May facilitate job advertisements.</li> <li>• May spot and/or prohibit bogus job advertisements.</li> </ul>
Educational actors.	<ul style="list-style-type: none"> <li>• May conduct research and publish information and data on for instance the costs of recruitment and abusive practices and the effectiveness of law enforcement.</li> <li>• May document good practices.</li> <li>• May run courses on fair recruitment for students (and future leaders and employers).</li> <li>• May contribute data to enhance the targeting of labour inspections.</li> </ul>
International organizations – i.e. ILO (Fair Recruitment Initiative, Accelerator 8.7 lab), IOM (IRIS), World Bank, KNOMAD, Walk Free, HRW, others.	<ul style="list-style-type: none"> <li>• May develop international standards and guidance on fair recruitment.</li> <li>• May review and supervise progress by countries and provide technical assistance including training for fair recruitment.</li> <li>• May conduct research on fair recruitment.</li> <li>• May conduct policy dialogue with national authorities for fair recruitment.</li> </ul>

## ► 1.4 Why should States – and employers and recruiters within their territory – strive for fair recruitment?

In order to achieve fair recruitment, it is crucial that there is political commitment to achieve it, and that is expressed by leaders. In what follows, a set of reasons is offered why States, and employers and recruitment agencies within their territory, should strive for fair recruitment.

### 1.4.1 Why should national governments strive for fair recruitment?

All workers – including migrant workers – have a right to be free from abusive recruitment. According to the UNGP on business and human rights<sup>13</sup> it is a State's duty to protect against human rights abuses by third parties, including abusive recruitment of (migrant) workers.

Under the ILO Fundamental Principles and Rights at Work (FPRW) all ILO Member States have an obligation to eradicate forced labour in any form as soon as possible, including forced labour that results from unfair recruitment and debt bondage. Notably, under the Forced Labour Protocol (2014) article 2 (e) Member States shall take measures to support due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour. Abusive recruitment in any ILO member State may compromise this obligation.

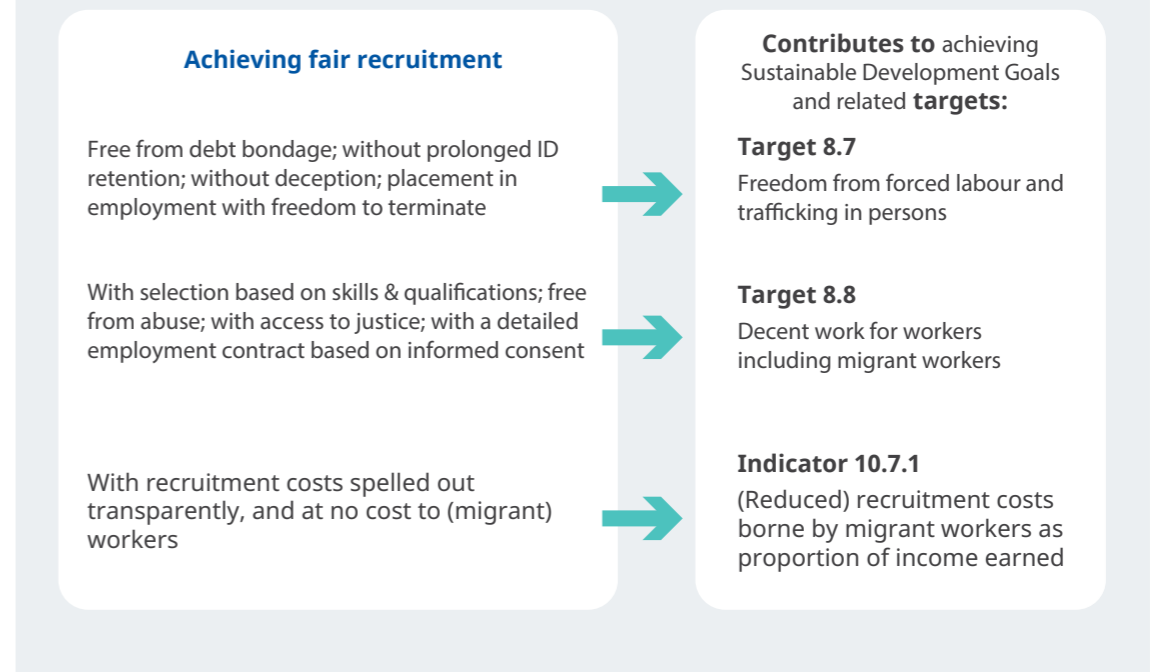
Also, abusive recruitment may result in debt bondage and situations of forced labour and may impede countries from achieving labour related targets under the Sustainable Development Goals (SDGs), especially target 8.7 against forced labour and trafficking in persons, and targets 8.8 (on decent work for workers) and 10.7 (on recruitment costs) – see visual B.

#### For reflection:

Governments bear the ultimate responsibility for advancing fair recruitment (within its sovereign territory).

(ILO GPOG, operational guidelines – Responsibilities of governments)

**Visual B:**  
Fair recruitment (FR) and the SDGs



Currently, unfair recruitment affects the lives of millions of (migrant) workers and their families. According to the ILO, workers pay between 5 to 10 billion USD in illegal recruitment fees per year.<sup>14</sup> This compromises the potential benefit (migrant) workers can make from remittances and work-related savings.

A continuation of unfair recruitment practices also contributes to sustaining a multi-billion USD business where unscrupulous recruiters are given the impression that they may operate with impunity, and which contributes to normalizing a culture where it is considered acceptable that workers, including migrant workers, pay money to get a low-skilled and low-paid job.

Countries across the world want to be seen as striving for excellence, and concerted action for fair recruitment may help to preserve or promote a country's reputation. Exposure to unfair recruitment, absence or limited capacity of law enforcement mechanisms and lack of proof of effective law enforcement against abusive recruitment may hamper a country's credibility and reputation, as the strength of the rule of law may be questioned.

<sup>13</sup> Also mentioned in the ILO Tripartite Declaration of Principles of Multinational Enterprises and Social Policy (MNE Declaration), 1977.

<sup>14</sup> ILO, *Why fair recruitment matters; Training toolkit on establishing fair recruitment processes* (2018), p. 8.



Currently, unfair recruitment affects the lives of millions of (migrant) workers and their families.




Workers **pay** between  
**5 to 10**  
billion USD  
in illegal recruitment fees  
per year. \*

(\* According to the ILO



This compromises the potential benefit (migrant) workers can make from remittances and work-related savings.

Obligations under FPRW may lead countries that face unfair recruitment to scrutiny by the [ILO supervisory system/mechanism](#)<sup>15</sup> (in reaction to regular reports on the application of Conventions submitted to the ILO Committee of Experts on the Application of Conventions and Recommendations), the UN human rights monitoring mechanisms (including treaty-based bodies and charter-based bodies),<sup>16</sup> and the annual US Trafficking in Persons report.

Exposure to unfair recruitment in supply chains may also put in jeopardy the international trade of goods to countries<sup>17</sup> and regions<sup>18</sup> that may impose bans on products that are associated with forced labour, including forced labour resulting from abusive recruitment.

Finally, striving for fair recruitment – with selection of workers based on matching skills and qualifications rather than the willingness of workers to pay for recruitment – would contribute to satisfied employers and workers and the efficient functioning of labour markets.

### 1.4.2 Why should enterprises, including private employment agencies, strive for fair recruitment?

#### Box 1.3. The business case for fair recruitment, and against abusive recruitment

Because it is a responsibility of any business to respect human rights, including the right to be free from abusive recruitment induced forced labour.<sup>19</sup>

This business responsibility is one of three core pillars in the UN guiding principles on business and human rights (2011) and may be fulfilled by issuing a policy commitment, conducting human rights due diligence internally and throughout their supply chains, including attention to fair recruitment. Another pillar is the need for 'affected' businesses to provide for or cooperate in their remediation through legitimate processes.

The UN Global Compact includes as principle the right to freedom from forced labour, including abusive recruitment-induced forced labour. Member companies need to abide by this principle.

<sup>15</sup> This may include representations or complaints for non-observance of Conventions. Representations for non-observance of Conventions can be initiated by employers' or workers' organizations according to article 24 of the ILO Constitution and complaints for non-observance of Conventions can be initiated by a Member State that is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified, the Governing Body or a delegate of the International Labour Conference according to article 26 of the ILO Constitution.

<sup>16</sup> The ten human rights Treaty Bodies, made up of committees of independent experts, monitor implementation of the core international human rights treaties. The charter-based bodies include the Human Rights Council, Special Procedures, the Universal Periodic Review and Independent Investigations. Alleged victims of human rights violations can submit a complaint under Special Procedures, Treaty Bodies, or the Human Rights Council.

<sup>17</sup> Such as the United States of America, which monitors a list of products under the Trafficking victims protection reauthorization Act (TVPRA) of 2005 – see <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods-print#:~:text=The%20most%20common%20agricultural%20goods,and%20diamonds%20are%20most%20common>.

<sup>18</sup> On 14 September 2022 the European Commission published its proposal for a forced labour products ban (see <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0453>) for negotiation with the European Council and the European Parliament.

<sup>19</sup> See article 2d of the ILO Forced Labour Protocol P29 (2014), the ILO FPRW and the UN GP (article 12).

Box 1.3. (cont.)

To avoid the risk for companies of association with forced labour, and to avoid the risk of criminal prosecution.

Abusive recruitment of migrant workers may result in debt bondage and situations of forced labour, so to avoid the risk of association with forced labour, any enterprise should ensure fair recruitment in its operations, and prevent or mitigate abusive recruitment in operations of the other companies in its supply chain, including recruitment agencies that they may contract.

To avoid the financial risk of payment of compensation to abused workers.

Association with abusive recruitment makes companies vulnerable to repayment of large amounts to workers for illegally charged recruitment fees/ costs and as compensation for abuse.<sup>20</sup>

To protect the company's reputation and brand image in an increasingly interconnected world where social media may swiftly expose injustice.

A company image and reputation can be adversely affected by allegations of labour exploitation and abuse including trafficking of human beings and forced labour.<sup>21</sup> Reputational costs can be high and may result in a decline in sales and share prices, or even a loss of business. Reputational damage due to association with forced labour may tarnish the reputation of an entire industry in a country (and may contribute to export/import bans (see below)).

To avoid the risk of trade barriers.

Increasingly, trade agreements among countries and regions incorporate labour and social provisions, including the prohibition of forced labour. Participating countries need to comply to continue the trade relations and enjoy certain trade advantages. All World Trade Organisation (WTO) member governments are committed to internationally recognized "core" standards — including freedom from forced labour.

<sup>20</sup> For example, in the period 2008-2021, Apple's suppliers repaid recruitment fees to 37,332 employees in value of \$33.2 million. Source: US DOL, 'Examples in Action: Apple's\* Supplier Code of Conduct and Recruitment Fees' at <https://www.dol.gov/agencies/ilab/comply-chain/steps-to-a-social-compliance-system/step-6-remediate-violations/example-in-action-apples-supplier-code-of-conduct-and-recruitment-fees#:~:text=Since%202008%20and%20as%20of,supply%20chains%20in%20Southeast%20Asia>.

<sup>21</sup> See quote from Human Rights Outlook (2016): 'The illegal and often abusive treatment of foreign workers into forced labour is one of the most pressing reputational risks for global corporations' at <https://www.maplecroft.com/insights/analysis/modern-slavery-migration-and-traceability-top-human-rights-risks/>.

Box 1.3. (cont.)

To avoid the risk of trade barriers.

In addition, countries like the United States of America (USA) are working with a list of goods<sup>22</sup> that are monitored for association with forced labour and that may result in bans of these goods from affected exporting countries, while the European Union is preparing policy along similar lines.<sup>23</sup> Similarly, in February 2023, Mexico published the "Agreement that establishes the commodities whose import is subject to regulation by the Secretariat of Labor and Social Welfare." Since its entry into force, in May 2023, in collaboration with the Secretariat of Economy and the Secretariat of Finance and Public Credit, the Secretariat of Labor and Social Welfare began the implementation of a novel mechanism through which it will be possible to investigate goods imported into Mexico that are allegedly produced totally or partially with labour where forced labour exists; and if confirmed, the prohibition of entry into the national territory of said merchandise may be determined.

To demonstrate Corporate Social Responsibility (CSR)<sup>24</sup> and build consumer trust and brand image.

Many global brands and buyers, and national businesses that care about their reputation in their local communities want to demonstrate social engagement and responsible business conduct. They may do so through adopting Codes of Conduct (CoC) that include attention to fair recruitment / against abusive recruitment.

Credible CSR policies and codes of conduct that include attention to fair recruitment may contribute to enhancing a company's reputation. This in turn may help to attract better talent and loyal customers; may enable the charging of a premium; and create higher market value as it is believed that such companies will deliver sustained earnings and future growth.

<sup>22</sup> Idem footnote 16.

<sup>23</sup> Idem footnote 17.

<sup>24</sup> CSR is a voluntary, enterprise-driven initiative and refers to activities that are considered to exceed compliance with the law. A way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both in their own internal methods and processes and in their interaction with other actors.



# Part 2

## Matters of process in action for fair recruitment – Key steps to consider for a comprehensive national approach towards fair recruitment

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### Summary of content

Part 2 describes matters of process in developing joined up action towards fair recruitment in a step-by-step manner. This part includes attention to inclusive mobilization of relevant stakeholders, analysis and reaching a common understanding of the local situation, pre-conditions for successful implementation, considerations pertaining to strategic entry points, consultation and decision-making on effective ways forward given the particularities of national contexts, and how to monitor and report progress based on SMART indicators.

This part identifies, describes and provides practical examples along the following 7 steps:

- 2.1 Step 1 – Map and mobilize core stakeholder groups to engage in initial dialogue for fair recruitment
  - 2.2 Step 2 – Conduct analysis of the current situation
    - 2.2.1 Situation analysis
    - 2.2.2 Legal and policy analysis (or gap analysis)
    - 2.2.3 Institutional analysis
    - 2.2.4 Thematic or sectoral analysis
    - 2.2.5 Inclusiveness of review
    - 2.2.6 Regularity of review
  - 2.3 Step 3 – Organize national consultation / validation with core stakeholders on the current situation and strategy towards fair recruitment
    - 2.3.1 Addressing root causes
    - 2.3.2 Vulnerability
    - 2.3.3 Gender responsiveness
    - 2.3.4 Pilot programming
    - 2.3.5 Strategic entry points
    - 2.3.6 Coordination among relevant actors
  - 2.4 Step 4 – Develop and agree on an Action Plan or Roadmap on WHO does WHAT and WHEN to achieve fair recruitment and set indicators and targets
  - 2.5 Step 5 – Implement the Action Plan or Roadmap for fair recruitment
  - 2.6 Step 6 – Monitor progress in implementation of the Action Plan or Roadmap for fair recruitment
  - 2.7 Step 7 – Report internally and internationally
-

The ILO Fair Recruitment Initiative (FRI) hinges on a multi-level approach that combines global, regional, and country level interventions for fair recruitment. Under the FRI, this Roadmap targets national level initiatives.

With in mind the reasons for fair recruitment as spelled out in Part 1 – including the obligations of countries under core labour standards and commitments made under the SDGs – any national initiatives towards fair recruitment should be undertaken with a broad range of core stakeholders. These initiatives may vary depending upon the national context, needs and challenges, and they need to factor in local realities that may vary substantially across the world.

These ‘local’ realities may be shaped by some or more of the following:

- the level of (in)formality of the economy;
- whether the country is mostly sending or receiving migrant worker or both (i.e., country of origin versus country of destination perspective, and/or transit dimension);
- specific labour migration corridors that the country is part of;
- local labour market realities and skills needs and levels;
- level of inclusivity/discrimination of various groups and gender-based inequalities;
- level of effectiveness and implementation of the rule of law;
- social norms and cultural practices around recruitment;
- level of commitment to fair recruitment in government (both at national and local levels) and in locally established businesses;
- current regulatory modality – i.e., statutory (government regulations (a) prohibit, (b) license or (c) register private labour recruiters and employment agencies) versus voluntary self-regulation mechanisms with some oversight by the State;

- level of decentralization of government and how authority over recruitment is distributed between central and local authorities;
- current role and capacities of enforcement authorities, especially labour inspectorates, over recruitment practices;
- current role and capacity of public employment services;
- current role and capacity of private employment agencies, including, possibly, informal brokers;
- current initiatives and instruments of relevance – such as national policy against human trafficking and/or forced labour, bilateral labour agreements, regional labour migration initiatives, free movement of persons protocols, relevant business initiatives such as sectoral commitment against abusive recruitment, functioning hotlines, civil society activism (such as country level initiatives by ITUCs Migrant monitor – see box 3.18); and
- existence of trade unions and civil society organizations and their level of commitment, engagement, and capacities to cater to the needs/provide services to migrant workers, contributions to social dialogue, and monitoring and exposing recruitment related abuses.

This diversity in national situations implies that there is not one best way forward to achieve fair recruitment and that it is important to develop a common understanding of the current situation and level of commitment for a shared way forward to reach fair recruitment – and to do so with the right set of relevant stakeholders. It also implies that countries are preconditioned differently – some having advanced more than others – resulting in countries having to follow different trajectories to achieve fair recruitment.

In what follows in Part 2, this guide offers a series of process steps to consider for coordinated national level action towards fair recruitment.

**Visual C:**  
Matter of process – Steps for coordinated national level action towards fair recruitment



## ► 2.1 Step 1 - Map and mobilize core stakeholder groups to engage in initial dialogue for fair recruitment

The ILO GPOG – and ILO Convention No. 181<sup>27</sup> – spell out that governments bear the ultimate responsibility for advancing fair recruitment. They can do so by acting as employers, by providing job matching and placement services through PES, by conducting targeted awareness raising campaigns, by regulating recruitment, and by enforcing legislation. It is particularly in this regulatory and enforcement capacity that governments can shape national recruitment realities.

Where necessary, governments should be reminded of these roles, which can be done through parliamentary processes (e.g., questions in national assemblies), the supervisory machinery of the ILO and the UN human rights monitoring mechanisms, diplomatic channels, interregional and global conferences, UN policy dialogue, tripartite dialogue, civil society initiatives, media reporting, and promotion of this Roadmap.

Ministries of labour may spearhead the shaping or reshaping of policy and regulatory frameworks pertaining to fair recruitment, or alternatively ministries of planning and development, or other like-minded ministries that are instrumental in economic and labour market development. These lead ministries could possibly chair inter-ministerial initiatives for fair recruitment that also involve other relevant ministries such as interior (police; local/municipal authorities; integration of migrant workers), judiciary (prosecution, jurisprudence), finance (taxation policies), foreign affairs (migrant workers, bilateral relationships), social affairs (workers welfare, hotlines) and sectoral line ministries such as those of agriculture and health.<sup>28</sup>

The ILO GPOG prescribe further that employers' and workers' organizations should be involved in setting and regularly reviewing legislations, regulations and policy pertaining to fair recruitment (see ILO GPOG, operational guideline 3).<sup>29</sup> These should preferably be in contact with workers, including women and men migrant workers, to ensure their gendered realities pertaining to recruitment are reflected and addressed.

The ministry that spearheads the fair recruitment initiative nationally may do a mapping of the most relevant stakeholders to engage in the initial dialogue that may aim to discuss/agree on the process steps ahead and the terms of a national study on recruitment to be undertaken. For a full list of actors to consider, see section 1.3 of this guide.



<sup>27</sup> See articles 11 and 12 of the ILO Private Employment Agencies Convention, 1997 (No. 181).

<sup>28</sup> For instance, in Germany the Federal Ministry of Health owns a certification scheme called 'Faire Anwerbung Pflege Deutschland' (Fair Recruitment Healthcare Germany) which certifies recruitment agencies and healthcare institutions which recruit nurses from abroad. The scheme includes the employer pays principle.

<sup>29</sup> See also articles 8 and 13 of ILO Convention No. 181.

## ► 2.2 Step 2 - Conduct analysis of the current situation

As each country situation is unique, it is of crucial importance that all relevant stakeholders have a common understanding of the current, national situation pertaining to recruitment of (migrant) workers, prior to developing shared and broadly supported ways forward.

The current situation pertaining to recruitment of (migrant) workers within a country can be determined through targeted review and analysis, and UN member States are committed to this under the adopted Global Compact for Safe, Orderly and Regular Migration (Paragraph 22 under objective 6). Such review and analysis should include a situational analysis, a legal and policy analysis (i.e., gap analysis) and an institutional analysis, or a combination of these, and may also include sector specific or thematic studies and attention to root causes, vulnerability, and discrimination.

### For reflection:

*'We (UN member States) 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 socio-economic contributions of migrants in both their countries of origin and destination'.*

(Global Compact on Migration (GCM), Paragraph 22, under objective 6 on fair recruitment)

### 2.2.1 Situational analysis

A situation analysis is crucial in assessing the current status with regards to recruitment abuse and/or fair recruitment of (migrant) workers in, to, from the country.

It should create clarity on the magnitude and profile of migrant workers in, from or to a country and their recruitment experiences. This requires the extensive collection of disaggregated data (including number of migrant workers from particular countries (in countries of destination) and migrant workers to particular countries (in countries of origin) by age, sex, migration status, level of education, sector of work, geographic location, and other characteristics relevant to national contexts - in line with Objective 1 of the GCM, target 17.18 of the Sustainable Development Goals (SDGs) and SDG indicator 10.7.1.<sup>30</sup>

Identifying the destination of migrants may help countries of origin to understand recruitment in migration corridors and how to adequately plan for protection along those corridors. Likewise, knowing about the origins of migrant workers may help the destination country to map its labour supply and work towards instituting fair recruitment safeguards along migration corridors. This also builds the foundation for bilateral and multilateral cooperation.

<sup>30</sup> See 'Statistics for SDG indicator 10.7.1: Guidelines for their collection' by ILO and the World Bank (2019).



Within these described migration corridors, the situation analysis should also touch upon risk profiles aimed at describing which of the migrant workers are most vulnerable to recruitment related abuse, including from a gender perspective, while factoring in age and education level, place of origin, family situation and level of debt.<sup>31</sup>

The situation analysis should factor in whether migrant workers are moving to take low-skilled or high-skilled jobs and consider sector specific risks and vulnerabilities pertaining to unfair recruitment. Knowing in which sectors migrant workers are concentrated and understanding the sector specific risks and vulnerabilities is crucial in order to identify solutions that are tailored to recruitment modalities in sectors such as construction (which is highly subcontracted), domestic work (particular type of employer, often in a private sphere), fishing (confinement on ships results in particular challenges pertaining to freedom of movement), agriculture (often seasonal) and manufacturing (often as part of complicated supply chains). These are sectors where forced labour tends to have higher prevalence and where coverage of labour law might be weaker or absent.

Finally, the situation analysis should enlighten on the actors that facilitate selection, recruitment, and placement of migrant workers, and clarify which ones feature high-risk practices and which ones could be part of solutions towards fair recruitment. This part of the analysis should factor in formal versus informal recruiters, phoenix agencies,<sup>32</sup> online recruitment, direct recruitment by companies, sub-contracting arrangements, specialized services such as those for medical testing, pre-departure orientation, skills testing and travel, and services provided by public employment services. An example of a study on recruitment actors is the one done by ILO in Pakistan.<sup>33</sup>

## 2.2.2 Legal and policy analysis (or gap analysis)

A gap analysis is aimed at juxtaposing a country's regulatory framework and enforcement machinery against international standards, while factoring in the actual treatment of migrant workers as described in the situation analysis.

The gap analysis should include a comprehensive overview of the respective State's recruitment and migration governance architecture. This includes coverage of ratified international labour and human rights standards, relevant national legislation, including the labour code, anti-trafficking regulation, sector specific laws, any relevant bi-laws and other recruitment related regulations, any sub-national and/or decentralized regulations, along with bilateral and multilateral labour migration agreements the country is party to. Labour migration policies and National Action Plans (such as those against human trafficking) should also be documented from a recruitment angle.

A gap analysis should measure the effectiveness of a country's regulatory framework pertaining to labour migration and recruitment against benchmarks set by guidance from international labour standards.

<sup>31</sup> For an example see 'Women migrant workers' labour market situation in West Africa', ILO (2020).

<sup>32</sup> The terms "phoenix agencies" (sometimes also called 'letterbox' companies or 'fly-by-night' firms) are used to refer to in cases where recruitment agencies reappear under a different name after licenses have been revoked.

<sup>33</sup> Recruitment agency business practices and the role of intermediaries in the foreign employment industry in Pakistan, ILO (2020).

More concretely, it should determine the extent to which the country's legal and policy framework and enforcement machinery lives up to the 13 principles set out in the ILO GPOG.

A gap analysis should provide recommendations on the best possible actions for addressing the identified gaps. These could include the ratification of relevant international conventions, the adoption of new legislation, and/or the amendment of established laws or regulations aimed at alignment with relevant international labour standards. Recommendations could also include modified enforcement modalities and the adoption of labour migration policies that embed fair recruitment principles.

Inspiration may be drawn from various ILO country studies such as those conducted for Pakistan,<sup>34</sup> Madagascar,<sup>35</sup> and Nepal.<sup>36</sup> The fair recruitment gap analysis conducted by the ILO in El Salvador, Guatemala, Honduras, and Mexico offers an example of a review along prominent labour migration corridors.<sup>37</sup>

The Five Corridors Project offers an example of a comprehensive analysis of legal, policy and enforcement modalities in the Mexico-Canada corridor,<sup>38</sup> covering national migration policy; legal and regulatory frameworks; bilateral labour arrangements; licensing, registration and certification; machinery to implement and enforce regulations; measures to prevent fraud and abusive recruitment; grievance mechanisms and access to remedy; measures to provide accurate information to workers; and freedom of association.

For the analysis of Bilateral Labour Agreements (BLAs) inspiration may be drawn from the ILO and IOM Tool for the Assessment of Bilateral Labour Migration Agreements,<sup>39</sup> the Guidance on Bilateral Labour Migration Agreements developed by the United Nations Network on Migration,<sup>40</sup> and regional guides such as those by the African Union.<sup>41</sup>

Any gap analysis may also benefit from assessment of coherence among relevant policy areas<sup>42</sup> such as labour migration, employment, education/training and inequality and discrimination.

## 2.2.3 Institutional analysis

The successful implementation of any fair recruitment policy or regulation depends on, and is closely intertwined with the number, variety and quality of the institutions that implement and supervise them. These institutions should thus be mapped and then analysed as their performance is influenced by factors such as the political commitment to fair recruitment by leaders, available financial budgets, access to quality information and data, quality of hotlines (how well known and accessible are they; do migrant workers trust them; and do they perceive them as useful?), number of trained staff, standard operating

<sup>34</sup> ILO, Review of law, policy and practice of recruitment of migrant workers in Pakistan (2020).

<sup>35</sup> ILO, Le recrutement équitable à Madagascar (2021).

<sup>36</sup> ILO, Recruitment of migrant workers from Nepal: Country profile (2021).

<sup>37</sup> ILO, Fair recruitment in El Salvador, Guatemala, Honduras, and Mexico: Assessing progress and addressing gaps (2023).

<sup>38</sup> The Five Corridors Project is an initiative by FairSquare Projects, which is a non-profit human rights organisation that tailors rigorous research with communication and advocacy work to promote systemic change. Under the Five Corridors Project, comprehensive research and analysis was carried out in five corridors including the Mexico-Canada corridor. The results are captured in *Five corridors project; Mexico to Canada: Fair recruitment in review*, FairSquare Projects (2021) at [https://fivecorridorsproject.org/uploads/C5\\_Mexico\\_Canada-report.pdf](https://fivecorridorsproject.org/uploads/C5_Mexico_Canada-report.pdf)

<sup>39</sup> ILO and IOM, Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region (2019).

<sup>40</sup> United Nations Network on Migration, Guidance on Bilateral Labour Migration Agreements (2022).

<sup>41</sup> At [https://au.int/sites/default/files/newsevents/workingdocuments/41106-wd-GUIDELINES\\_ON\\_DEVELOPING\\_BILATERAL\\_LABOUR\\_AGREEMENTS\\_BLAS-ENGLISH\\_0.pdf](https://au.int/sites/default/files/newsevents/workingdocuments/41106-wd-GUIDELINES_ON_DEVELOPING_BILATERAL_LABOUR_AGREEMENTS_BLAS-ENGLISH_0.pdf).

<sup>42</sup> See box 1 on page 103 in *'Africa regional fair recruitment report; The recruitment of migrant workers to, within and from Africa'*, ILO (2021).

procedures, reporting modalities, level of authority (e.g., covering recruitment of nationals in foreign labour markets and/or covering migrant workers on the local labour market), and level of access to justice and redress mechanisms for migrant workers. This analysis should also include attention to interagency arrangements including inter-ministerial mechanisms, and the quality of collaboration.

In addressing institutional shortcomings, States may consider the benefits they reap from labour migration – both at origin and destination – and that these benefits (i.e. remittances of migrant workers spent at origin or savings of migrant workers spent at destination) could be enhanced if migrant workers benefitted from fair recruitment, and that it is thus in any country's interest to make sufficient financial and human resources available for institutions to conduct law enforcement and policy implementation.

## 2.2.4 Thematic or sectoral analysis

National actors may also initiate more granular research and analyses on certain sectors or themes depending on the specific national level migration context and specific vulnerabilities of (migrant) workers. These may include research on pre-departure orientation, licensing, the role of labour inspectorates in monitoring and enforcement, access to justice and non-discrimination in recruitment. The ILO paper entitled *'Fair recruitment and access to justice for migrant workers'* (2023) may provide inspiration in this context, while the ILO working paper entitled *Global labour recruitment in a supply chain context* (2015) offers a thematic example of how countries may analyse recruitment modalities in cases where they host enterprises with extended international supply chains and includes descriptions of business compliance 'models' based on analysis of business practices. Studies may also review recruitment modalities through a gender lens, and/or focus especially on the plight of migrant women as done in a study on Central American women in Mexico.<sup>43</sup>

## 2.2.5 Inclusiveness of review

For the above-mentioned analyses to be most useful, it is important that they are inclusive in focus, and include attention to vulnerability and gender-discrimination. Also, the analysis would need to pay attention to root causes that underpin abusive recruitment.

## 2.2.6 Regularity of review

Given the dynamic nature of labour migration and recruitment, it is furthermore important to regularly conduct review and analysis of the situation of migrant workers pertaining to recruitment and employment, along with a review of regulatory and institutional modalities and enforcement mechanisms, and to adjust policy and enforcement practices accordingly. The ILO GPOG prescribes in operational guideline 3 to *'regularly reviewing and evaluating national fair recruitment commitments and policies, with the participation of employers' and workers' organizations'*.

### For reflection:

Governments should consider establishing and regularly reviewing and evaluating national fair recruitment commitments and policies, with the participation of employers' and workers' organizations

(ILO GPOG, operational guideline 3)

<sup>43</sup> ILO, *Central American migrant women in Mexico: Informality in recruitment and employment* (2020).

## ▶ 2.3 Step 3 - Organize national consultation / validation with core stakeholders on current situation and strategy towards fair recruitment

Once the findings of the various analyses are known, they should be validated in consultation with all relevant stakeholder groups, including employers' and workers' organizations and other relevant actors.

These tripartite plus consultations contribute to ensuring meaningful engagement and broadly supported commitment to change, and enhanced ownership and accountability. They are crucial also in determining workable ways forward and balanced policymaking for labour migration and fair recruitment. They may also contribute to inclusive policy outcomes and sustainability of developed legal, policy, and implementation initiatives – see box 2.1 for an example of constructive tripartite plus consultation.<sup>44</sup>

### ▶ Box 2.1. Tripartite plus consultation in garment sector of Jordan

Consultations between the Jordanian Ministry of Labour, the ILO, employers in the garment sector and the General Trade Union of Textile Garment and Clothing Industries led to the adoption of a zero-fee policy aimed at ensuring that workers do not pay recruitment fees at all stages of recruitment to work in the Jordanian garment.

In addition to discussing and validating the findings of the analyses, the consultations should cover strategic directions towards fair recruitment. These strategy discussions should include attention to root causes, vulnerability, gender-responsive or gender-transformative approaches, pilot programming, strategic entry points and coordination as follows:

## 2.3.1 Addressing root causes

In considering the current situation and ways forward, the national consultations should factor in root causes that may be addressed depending upon the local context. These may include poverty linked to social injustice (which may trigger labour migration and dependence upon money lenders to finance recruitment), weak governance in a particular sector (which may signal that unscrupulous recruiters and employers may operate with impunity) and discrimination of a structural nature (e.g., sponsorship modalities that make migrant workers dependent upon employers for work and legal status) and/or through social exclusion (e.g., discrimination through language barriers or remoteness from services).<sup>45</sup>

<sup>44</sup> For more, see [https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS\\_778836/lang--en/index.htm](https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS_778836/lang--en/index.htm).

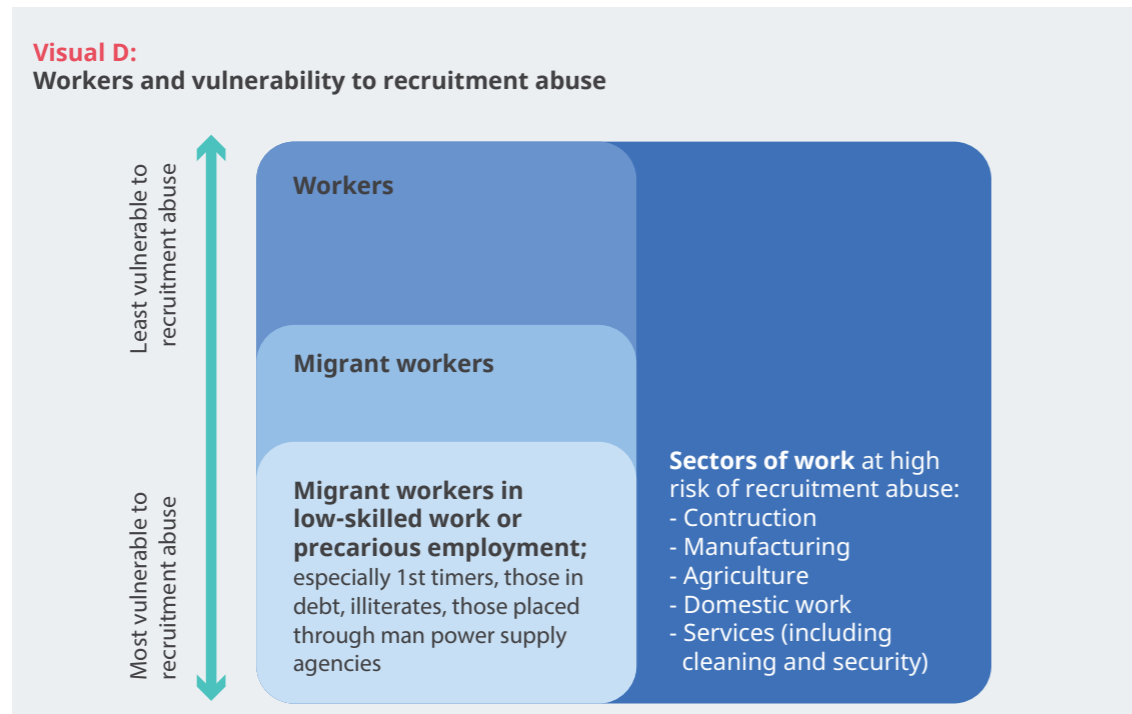
<sup>45</sup> For an example see 'Understanding patterns of structural discrimination against migrant and other workers in some countries of South and West Asia', ILO (2022).



### 2.3.2 Vulnerability

National consultations should also pay particular attention to factors that exacerbate vulnerability to recruitment abuse and how this impacts certain groups.

The GCM recommends that policies and initiatives are people-centred and promote the well-being of migrants. In striving for fair recruitment, it is therefore appropriate to include attention to migrant workers, and in particular migrant workers in low-skilled occupations – see visual D.



The ILO definition of recruitment fees and related costs<sup>46</sup> recognizes in this context that ‘costs for workers recruited internationally can be significantly higher than those for workers recruited nationally due to a range of factors, including a lack of consistency and transparency on what these costs constitute in different national contexts’ while it is broadly understood that migrant workers in low-skilled occupations are affected in particular (and while fees of migrant workers in higher skilled occupations tend to be paid by employers).

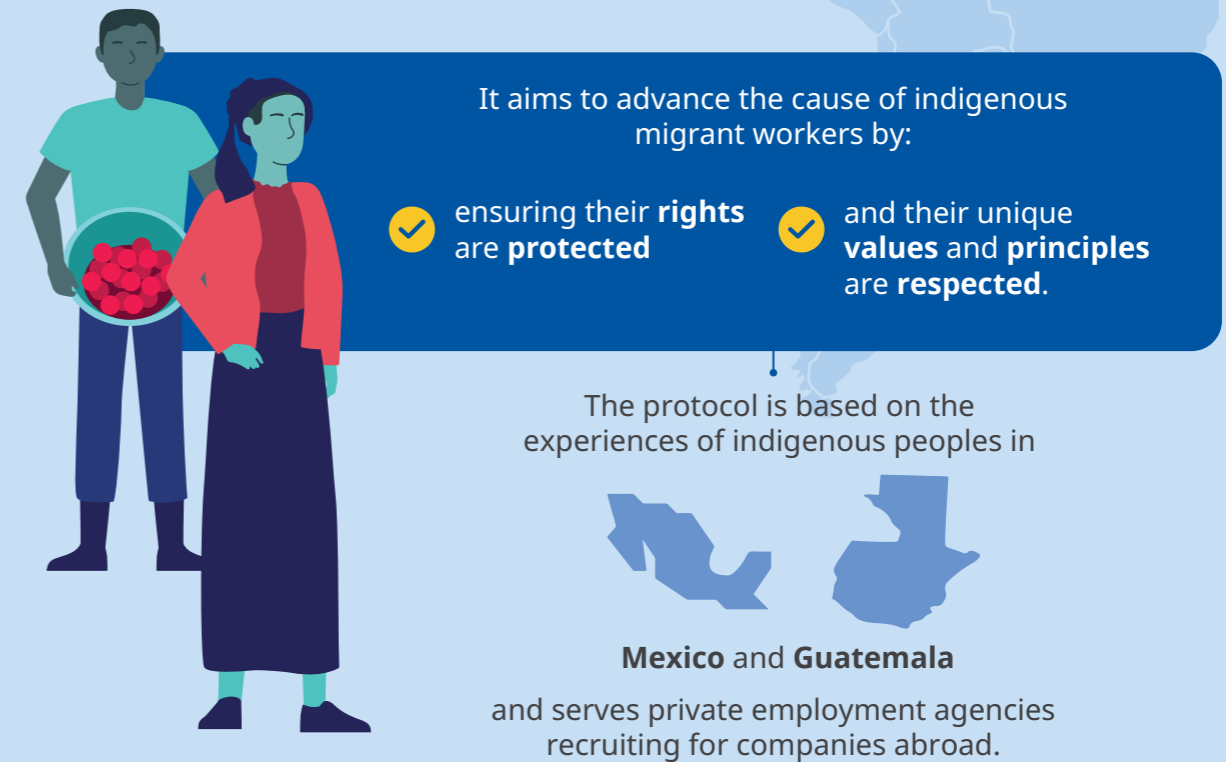
Gender, age, ethnic or racial discrimination may also intersect to put certain individuals or groups at higher risk of recruitment related abuse. For example, indigenous people in certain countries face specific challenges during the recruitment process due to a combination of socioeconomic, linguistic, and cultural barriers. This requires tailor made responses. In the Americas, ILO and CIERTO<sup>47</sup> developed a protocol on fair recruitment of indigenous peoples for work abroad.<sup>48</sup> It aims to advance the cause of indigenous migrant workers by ensuring their rights are protected, and their unique values and principles are respected. The protocol is based on the experiences of indigenous peoples in Mexico and Guatemala and serves private employment agencies recruiting for companies abroad.

<sup>46</sup> See section 1.4 of the ILO definition of recruitment fees and related costs (2018).

<sup>47</sup> An ethical recruitment agency with operations in Guatemala, Mexico and the USA.

<sup>48</sup> See [https://www.ilo.org/sanjose/sala-de-prensa/WCMS\\_888673/lang--en/index.htm](https://www.ilo.org/sanjose/sala-de-prensa/WCMS_888673/lang--en/index.htm).

In the Americas, ILO and CIERTO developed a **protocol** on fair recruitment of indigenous peoples for work abroad.



Additional sector specific risks to abuse may offer further entry points for action, including in agriculture (e.g., seasonality, temporary contracts), construction (e.g., subcontracting, lack of specific OSH measures), domestic work (e.g., on call 24/7, placement in isolation, exposure to violence) and fishing (e.g., withholding passports, lack of freedom).

### 2.3.3 Gender-responsive or gender-transformative approaches

In designing ways forward towards fair recruitment, the national consultations should include gender-responsive or gender-transformative approaches, as the recruitment of workers, including migrant workers, is influenced by the different gender dynamics that shape the experiences and opportunities available to men and women. Recognising the gender inequalities and challenges related to labour migration and addressing disparities between women and men in access to safe and fair opportunities is crucial for promoting equitable outcomes. A gender-responsive approach addresses specific women’s needs, for example by working in gendered sectors where inequalities are most critical, while a transformative approach aims to change behaviour and norms, working for example on structural shortcomings of gender-based inequalities, to foster in-depth transformation of the labour migration governance framework. By integrating gender-responsive and/or gender-transformative approaches into fair recruitment practices, stakeholders can work towards achieving gender equality, fostering inclusive development, specific needs-based responses and upholding human rights in the context of labour migration.

## 2.3.4 Fair recruitment in crises situations

Fair recruitment policies and practices should also duly consider the context in which recruitment of workers is happening, which can be characterized by different types of crises situations affecting people's movements within and across international borders. Forcibly displaced persons (including internally displaced persons, refugees and asylum seekers, etc.) as well as communities that host them might face specific challenges, risks and vulnerabilities during recruitment processes. The adherence to fair recruitment principles is essential to any solution to forced displacement situations,<sup>49</sup> as well as human mobility in the context of disasters and climate change impacts.

In these contexts, fair recruitment is paramount for ensuring their access to human and labour rights for preventing enhanced risks of abuses and exploitation. The ILO GPOG specifically call on governments to "respect human rights and promote fair recruitment in conflict and crisis situations". To do so, "Governments should take steps to ensure that enterprises, agencies and international assistance programmes operating in conflict and crisis situations are not involved with human rights and recruitment abuses" (operational guideline 12.1).

### ► Box 2.2. ASEAN Declaration on the Protection of Migrant Workers Family Members in Crisis Situation and its Guidelines

The Declaration refers explicitly to Fair Recruitment in paragraph 42: "Further efforts to strengthen migrant workers' resilience to crises need to include improving access to regular pathways for labour migration, fair recruitment and decent work for all migrant workers. These efforts need to include strengthening national laws and their enforcement on decent work and improving migrant workers' job security, wage protection, social protection, living and working conditions, access to support services, access to grievance mechanisms and justice, including cross-border handling of complaints."

## 2.3.5 Pilot Programming

In designing palatable ways forward, it is important to include pilot initiatives that are manageable in scale and that can operationalize fair recruitment practices within national contexts. Such pilots allow for testing, monitoring, learning from and refining practical experiences. Where possible, such pilots should engage diverse stakeholders, and foster institutional capacity-building efforts.

Pilot programmes are critical for identifying viable fair recruitment options (i.e., proof of concept) and mobilizing support for scaling up to a wider group, or replication in different settings. Such scaling up or replication is vital in driving institutional or sector-wide changes, mobilizing further commitment to a process of change, and ensuring sustainability. Box 2.3 provides an example of a pilot initiative<sup>50</sup> that resulted in replication.

<sup>49</sup> A list of solution could be found in the UNHCR master glossary of terms | UNHCR; Solutions | UNHCR.

<sup>50</sup> ADLSA and ILO, *Fair recruitment matters for business: Lessons from a pilot study in Qatar's construction sector*, (n.d.), and ILO, *Promising practices for fair recruitment: Piloting fair recruitment from Bangladesh to Qatar in the construction sector*, (2021).

### ► Box 2.3. Pilot initiative for fair recruitment of migrant workers in construction in the Bangladesh-Qatar corridor

In Qatar, a pilot programme to develop and assess the fair recruitment compliance of a sub-contractor of a large construction company based on the ILO GPOG resulted in technical training and the development of tools and procedures that were fair recruitment and GPOG compliant. A final impact assessment of the pilot showed that workers recruited after the pilot intervention reported paying no or minimal recruitment fees compared to workers employed before the intervention, lowering the cost of migration by up to 92 per cent. Other recorded positives were that workers have more control over their decision to migrate, better transparency about contracts and working conditions, a 93 per cent reduction in recruitment-related debt, and a reduced risk of labour disputes through an effective grievance mechanism. The pilot showed that fair recruitment is possible with commitment and transparency amongst all actors involved and that companies can achieve fair recruitment in a relatively short time span. The pilot has subsequently influenced the development of guidance tools for other sectors, such as the hospitality sector, with plans for further replication to other sectors.

## 2.3.6 Strategic entry points

Strategic entry points for interventions towards fair recruitment may accelerate results. These strategic entry points are about identifying interventions with maximum impact in the lives of migrant workers that need it most, where possible with the least amount of costs. Strategic entry points to consider may include:

- **Public procurement modalities** – that may include attention to fair recruitment, and which may contribute to change towards fair recruitment in for instance construction and manufacturing (see USA Federal Acquisitions Regulation (FAR) under footnote 74).
- **Specific labour migration corridors** – that offer risk/vulnerability to high recruitment fees and costs paid by migrant workers compared to other corridors, as documented by ILO-WB KNOMAD<sup>51</sup> and subsequent SDG 10.7.1 recruitment cost surveys.<sup>52</sup>
- **Specific sectors** – that may offer particular opportunities for change (e.g., change towards fair recruitment in the hospitality sector could be driven by brand name hotel chains and trade unions; change in the garments industry could be driven by changes in consumer preferences; the informal sector, and in particular indigenous peoples within it, may be at specific risk of recruitment abuse).
- **Brands and multinational enterprises** – that may offer entry points for human rights due diligence throughout supply chains (such as CGF – see box 3.13) by requiring their business partners in the countries where production takes place to recruit migrant workers fairly.
- **Attention to particular recruitment violations** – that may be straightforward to address (e.g., contract substitution) to be addressed through standard employment contracts that include attention to fair recruitment and that have been agreed on by countries of origin and destination; making prolonged passport confiscation a criminal offence at source and destination; initiate regulation that makes employers explicitly responsible for the costs of travel, a work visa and the matching service in recruitment of migrant workers.
- **Attention to specific actors** – such as informal sub-agents who may play a particular role in current recruitment modalities and who may not be actively monitored at present; also, PES and associations of PRAs may offer entry points for international placement in line with principles of fair recruitment.

<sup>51</sup> See <https://www.knomad.org/data/recruitment-costs> for more information on a range of recruitment cost surveys by KNOMAD.

<sup>52</sup> 'Statistics for SDG indicator 10.7.1: Measuring recruitment costs' at [https://www.ilo.org/global/topics/fair-recruitment/resources/WCMS\\_726736/lang--en/index.htm](https://www.ilo.org/global/topics/fair-recruitment/resources/WCMS_726736/lang--en/index.htm).

- **Attention to level of specificity in regulations** – if labour inspectors can only conduct law enforcement for fair recruitment if recruitment related offences are explicitly prohibited by law, regulations should be issued to address this; also, if licensing requirements for private employment and recruitment agencies include attention to fair recruitment, labour inspectors may monitor against these provided they have the mandate.
- **Existing national/regional coordination mechanisms** – that may be capitalized on by mainstreaming ‘fair recruitment’ into their remit (e.g., UN Common Country Assessment and UN Sustainable Development Cooperation Framework; National anti-human trafficking committee; National committee against forced labour; GCM action plans; national UN Networks on Migration; Regional Consultative Processes on Migration (RCPs)).<sup>53</sup>

### 2.3.7 Coordination among relevant stakeholders

The recruitment of migrant workers is often highly fragmented, involving a range of agencies undertaking different tasks at different stages of the recruitment process that may be complementary but that may also complicate regulatory and enforcement efforts. Given this multi-dimensional reality, abusive recruitment cannot be addressed by one government agency alone. Coordination among relevant actors is crucial and – according to the GCM – this requires a whole-of-government approach. Institutional coordination facilitates the exchange of knowledge and resources (including information), promotes policy coherence and consistency, strengthens accountability and enforcement mechanisms, and enhances the credibility of efforts to achieve fair recruitment.

#### ► Box 2.4. Pakistan whole of government approach

Pakistan is a country that aims to streamline recruitment, pre-departure registration, access to welfare in the destination countries, and access to justice through a whole-of-government approach. The approach links different governmental bodies associated with recruitment that are spread across the Ministry of Overseas Pakistanis (i.e., Protectorate of Emigrants, Bureau of Emigration and Overseas Employment, and the Overseas Pakistanis Foundation), Human Resource Development and the Ministry of Foreign Affairs (Community Welfare Attachés).

<sup>53</sup> Regional consultative processes on migration (RCPs) are state-led, regional information-sharing and policy dialogue processes among States from a region, dedicated to discussing specific migration issue(s) in a cooperative manner and may either be officially associated with formal regional institutions, or be informal and non-binding.

## ► 2.4 Step 4 - Develop and agree on an Action Plan or Roadmap on WHO does WHAT and WHEN to achieve fair recruitment and set indicators and targets

Once relevant stakeholders agree on a way forward to achieve fair recruitment, the main elements should be converted into a National Action Plan or national roadmap. This Roadmap should contain specific objectives under fair recruitment, expected results, and a set of activities, initiatives, and programmes that each aim at improving an element of recruitment modalities. These activities may be implemented by a range of specific stakeholders that need to be resourced. Together, these stakeholders may contribute more holistically and comprehensively to achieving fair recruitment over time in the specific setting of the country.

Italy offers an example of an inter-institutional mechanism to coordinate national action against exploitation in agriculture (see box 2.5, and also box 3.3).

#### ► Box 2.5. Italian inter-institutional coordination against labour exploitation in agriculture

In order to develop and monitoring implementation of the National Action Plan to tackle labour exploitation, unlawful recruitment and forced labour in agriculture, the Italian authorities established an inter-institutional mechanism which includes a range of ministries, government agencies (including public employment services, the labour inspectorate, other enforcement authorities), workers’ and employers’ organizations and civil society organizations. Although its mandate is on the broader issue of labour exploitation, it does include attention to abusive recruitment/intermediation.

As country settings differ widely it is impossible to prescribe the content of a single national roadmap. Nevertheless, Part 3 of the guide offers a set of possible interventions for each of the relevant stakeholder groups that may serve as inspiration for national roadmaps.

These activities, initiatives and programmes should be time-bound (i.e. deliver specified results by a certain deadline) and should be accompanied by clear indicators, baselines and targets (against which all stakeholders can commit) and against which progress may be monitored.

Ideally, the defined indicators should somehow relate to SDG target 8.7 (i.e. freedom from forced labour including forced labour resulting from unfair recruitment), target 8.8 (i.e. recruitment and placement of (migrant) workers into decent work), target 10.7 (i.e. Indicator 10.7.1, expressed as “recruitment costs borne by an employee as a proportion of monthly income earned in country of destination”) and provide inputs to reporting under the ILO Fundamental Principles and Rights at Work (FPRW), and possibly reporting under other ratified ILO Conventions beyond the scope of the FPRW, such as the ILO Private Employment Agencies Convention, 1997 (No. 181).

Depending upon the content of initiatives towards fair recruitment, **possible indicators of progress** may include some or more of the following:

- ✓ Number of placements of migrant workers with detailed employment contract.
- ✓ Number of placements of migrant workers with recruitment cost coverage by employers.
- ✓ Average recruitment costs paid by migrant workers as proportion of wages (see SDG indicator 10.7.1).
- ✓ Existence of regulatory provision for the registration/licencing of PRAs (and their alignment with ILO GPOG).
- ✓ Existence of legislative provisions prohibiting charging of recruitment fees and cost to workers, including clear sanction for abuse.
- ✓ Existence of clear provisions prohibiting contract substitution and document confiscation, including clear sanctions for abuse.
- ✓ Existence of complaint mechanisms for recruitment related abuse.
- ✓ Number of recruitment agencies that spell out itemized recruitment costs paid by employers.
- ✓ Number of negotiated BLAs that include attention to fair recruitment and modalities for monitoring across labour migration corridors.
- ✓ Number of migrant workers filing complaints.
- ✓ Number of spotted violations against fair recruitment legislation by type of violation.
- ✓ Number of convictions of culprits of unfair recruitment.
- ✓ Number and amount of financial settlements/reimbursement with migrant workers who faced unfair recruitment.
- ✓ Number of companies that have policies for fair recruitment and that impose these on their partners including recruitment agencies.
- ✓ Number of companies that report annually on their actions for fair recruitment as part of social reporting.



## ► 2.5 Step 5 - Implement the Action Plan or Roadmap for fair recruitment

Once the National Action Plan or Roadmap for fair recruitment is adopted by core stakeholders, the various elements should be implemented by the stakeholders that have been designated to undertake the various listed actions. This should include actual enforcement of enhanced regulations by relevant State actors (e.g., inspection of workplaces or private recruitment agencies by labour inspectorates or other competent authorities; monitoring of subcontracted companies for fair recruitment by end user enterprises), along with ensuring remedial action including punishment of culprits and payment of compensation to affected migrant workers. In this way, fair recruitment principles can be translated into tangible protections for workers, thus providing credibility to the concerted efforts by involved stakeholders.

In implementation of the various activities, initiatives and programmes, a range of pre-conditions for success should be considered – see box 2.6.

### Box 2.6. Preconditions for successful implementation of the National Action Plan

Inclusiveness	Any national initiatives for fair recruitment require attention to ALL relevant actors (ILO GPOG, operational guideline 5) and these include any recruitment agencies, including public employment services, private employment agencies (including placement agencies and labour supply agencies), public and private enterprises that employ (migrant) workers or subcontract companies with (migrant) workers, and informal sub-agents.
Conceptual clarity	E.g., ensure all actors – including labour inspectorates, the police, and the judiciary – have a shared understanding of what constitutes fair recruitment and how recruitment fees and related costs are defined (and who should pay for them).
Commitment by leaders of the involved organizations	This commitment should be expressed and communicated clearly. For instance, companies may express commitment to fair recruitment into their business plan and/or develop a code of conduct for all its operations to adhere to; recruitment agencies may commit to fair recruitment in a code of conduct by members of an association of private recruitment agencies; governments may commit expressly to fair recruitment in their national policies, including public procurement policies.

### Box 2.6. (cont.)

#### Clarity of mandate

It is crucial to define who is responsible for what, especially with regards to areas of concern pertaining to unfair recruitment. E.g., clarify which government agency deals with the informal economy including informal sub-agents; clarify that labour inspectorates should stay on the labour side of a 'firewall', while immigration department officials deal with immigration irregularities in accordance with relevant ILO standards on labour inspection; clarify which government agency monitors for fair recruitment in sectors of the economy that are excluded from the labour law (possibly including domestic work and agriculture).

#### Quality data and information

Relevant data and information should be updated and shared regularly with all relevant stakeholders, while factoring in privacy and confidentiality considerations. This enables targeting of hotspots where unfair recruitment is presumed, monitoring of progress, and adjustment of policy/interventions where necessary. Without regularly updated quality data and information, it is hard to make tangible progress and impossible to demonstrate it.

#### Sufficient financial resources

Stakeholders should allocate sufficient funds to recruit, train and equip staff to undertake the actions they have committed to. For instance, sufficient resources for labour inspectorates may enhance the quality of inspections and sufficient time for detailed reporting may enhance the chance of coming to a verdict in case of spotted violations.<sup>54</sup>

#### Standard operation procedures

These facilitate the implementation of tasks by involved staff in a standardized manner and contribute to institutional credibility (e.g., how should staff that issue licenses to private recruitment agencies gauge their capacity to deliver fair recruitment; how can labour inspectors spot unfair recruitment related offences at source (when inspecting private employment and recruitment agencies) and destination (when inspecting workplaces and/or private employment and recruitment agencies)).

### Box 2.6. (cont.)

#### Protocols for interagency collaboration

Protocols spelling out the modalities for interagency collaboration may contribute to efficient and effective operations. These may include a protocol for a National Referral Mechanism among hotline staff, labour inspectors, the police, social workers, and the judiciary. The comparative analysis of NRMs of European countries as captured in 'Protection and assistance of victims of labour exploitation; a comparative analysis', ILO (2020) may offer inspiration on how to go about identifying, protecting and assisting victims of labour exploitation in a collaborative manner.

In the private sector, companies may agree on sub-contracting arrangements with business partners that include attention to ensuring fair recruitment of workers, including migrant workers – see box 3.13 for an example of business chains commitment against unfair recruitment throughout supply chains.

## ► 2.6 Step 6 - Monitor progress in implementation of the Action Plan or Roadmap for fair recruitment

To ensure implementation of the agreed National Action Plan is on track, progress under the agreed indicators needs to be monitored regularly (with in mind the validated baseline and agreed targets).

This requires that the indicators and targets that were set under step 4 are SMART. SMART indicators help to ensure that the indicators chosen are well-defined and can be effectively measured to track progress towards specific goals and objectives (and the ultimate goal of achieving fair recruitment).

It also requires capacity to conduct monitoring of progress under the agreed action plan, and may be done by core actors coming together nationally on a regular basis to review collected data and information, and/or by engaging with UN agencies such as the ILO.

#### For reflection:

Without regularly updated quality data and information, it is hard to make tangible progress and impossible to demonstrate it.

<sup>54</sup> See Annex 5 – Case study of social inspection in Belgium and the Netherlands in 'Technical brief; Labour inspection and monitoring of recruitment of migrant workers', ILO (2022).

## ► 2.7 Step 7 - Report internally and internationally

Progress made under the agreed National Action Plan should be reported about regularly to all concerned stakeholders; this (a) to demonstrate the effectiveness of interventions, (b) to sustain the engagement, commitment and momentum for change towards fair recruitment by involved stakeholders, (c) to mobilize others to join in, and (d) as basis to change policy course in case adjustments need to be made based on learning.

Progress reports may also be used to share internationally to promote a country's image and credentials pertaining to transparent governance and the strength of its rule of law, and to inspire and mobilize other countries to follow suit towards fair recruitment in an interrelated and globalized labour market.

These progress reports may further serve as inputs to reporting under a country's international obligations such as reporting under:

- SDG target 8.7 (i.e. freedom from forced labour *including forced labour resulting from unfair recruitment*).
- SDG target 8.8 (i.e. *recruitment and placement of* (migrant) workers into decent work).
- SDG indicator 10.7.1 (i.e. recruitment cost borne by migrant worker as a proportion of income earned in the country of destination).
- The UN Global Migration Compact (GCM) especially under objective 6 pertaining to fair and ethical recruitment.
- The ILO Fundamental Principles and Rights at Work (FPRW), especially pertaining to freedom from forced labour resulting from abusive recruitment.
- Ratified ILO Conventions beyond the scope of the FPRW such as the ILO Private Employment Agencies Convention, 1997 (No. 181).
- Human rights monitoring mechanisms, treaty-based bodies and charter-based bodies.
- The US government's annual trafficking in persons report.



# Part 3

## Matters of content - Menu of actionable interventions for fair recruitment

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### Summary of content

This part offers a menu of options to consider in terms of actionable interventions by various stakeholder groups. To the extent possible, these are laced with examples drawn from experiences by relevant stakeholders from across the world and include documented promising practices.

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- 3.2.5 Mainstreaming fair recruitment in existing policies or developing national policies for fair recruitment
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## ▶ 3.1 Introduction

This part offers a menu of options in terms of actionable interventions by various stakeholder groups to consider for inclusion in a National Action Plan or Roadmap. The relevance of the presented options is context specific and depends on the preconditions featured in countries that consider application or replication.

The considerations and examples are aimed to offer 'food for thought' and inspiration to governments, employers, recruiters and others to become champions for fair recruitment. The menu of options is non-exhaustive and is envisaged to be dynamic in nature through regular updates based on global, regional and national developments and learning.

Ideally, the chosen options at national level should include actionable interventions that are enabling (i.e. enhanced regulatory frameworks and institutions), inclusive (i.e. covering all relevant stakeholders) and/or focused (i.e. result in making a difference in the lives of workers, especially migrant workers).

## ▶ 3.2 Considerations for actionable interventions by governments

Governments have the ultimate responsibility of ensuring effective protection of human and labour rights of work by adopting and enforcing relevant legislation in line with applicable international standards and guidelines. This guide offers a few examples of promising practices on fair recruitment implemented by a variety of different actors, including labour recruiters and employers. For such private sector practices to be multiplied and scaled up, governments can enact adequate regulatory framework, monitoring and enforcement and appropriate incentives mechanism as described below, among others.

### 3.2.1 Ratification of international labour standards

Where countries have not done so, ratification of relevant international labour standards is a suitable step to operationalizing fair recruitment nationally. The ratification of conventions demonstrates commitment and creates momentum for legal and policy reform, as ratifying States are required to reflect provisions of ratified conventions in national law and practice, following social dialogue. It also creates the obligation to report on application in law and in practice, while benefitting from guidance and oversight by the ILO supervisory system, including the ILO committee of experts on the application of conventions and recommendations (CEACR).

▶ In 2019, Madagascar ratified six ILO Conventions relating to recruitment of workers,<sup>55</sup> which has contributed to legal and policy reform, including changes to the labour code, efforts to strengthen the regulation of recruitment agencies, and the drafting of bilateral labour agreements that are under negotiation with Mauritius, Saudi Arabia, Kuwait and Lebanon.<sup>56</sup>

### 3.2.2 Revision of national law and regulations

Given the range of international labour standards and global policy instruments that are available in a dynamic and changing world, and where workers including migrant workers still face abuse, countries may consider revision of national laws<sup>57</sup> and regulations to better protect (migrant) workers from recruitment abuse. This may include revision of the labour law - and revision or issuance of bi-laws such as ministerial decisions. Sectoral laws and regulations could also be considered (e.g., regarding domestic workers, farm and agricultural workers) as well as laws and regulations against forced labour and trafficking in persons. Such legislation may offer incentives for behaviour change towards fair recruitment, as illustrated through new legislation in Guatemala - see box 3.1.<sup>58</sup>

#### ▶ Box 3.1. New legislation in Guatemala incentivises fair recruitment

On 1 June 2022, the government of Guatemala approved new legislation to incentivize fair recruitment and expand legal pathways for its citizens. The legislation exempts airline tickets from value-added and departure taxes for those traveling abroad for temporary work contracts 'obtained through the Ministry of Labour'. The new initiative is part of a broader set of Guatemalan programmes and policies to expand access to labour migration programmes, ensure fair and ethical recruitment, and promote legal protections for Guatemalan workers.

<sup>55</sup> They are the Protocol to the Forced Labour Convention, 2014 (P029); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Labour Relations (Public Service) Convention, 1978 (No. 151); Collective Bargaining Convention, 1981 (No. 154); Private employment Agencies Convention, 1997 (No. 181); Domestic Workers Convention, 2011 (No. 189).

<sup>56</sup> See the ILO promising practice note entitled 'Madagascar alignment of labour code to newly ratified conventions' for more details at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_840213.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_840213.pdf).

<sup>57</sup> Along with the revision of sub-national legislation in federal States with decentralized arrangements where appropriate.

<sup>58</sup> Comparative analysis of the standards and procedures on recruitment and placement of foreign temporary workers: Canada, El Salvador, Guatemala, Honduras, Mexico and the USA, ILO (2023), p. 29.



In order to facilitate enforcement of these laws and regulations for fair recruitment, it is considered crucial that specific unfair recruitment related abuses are spelled out as punishable offences. This in turn would enable monitoring of compliance. Box 3.2 offers a list of acts in recruitment that are prohibited by one or more countries in the ASEAN.<sup>59</sup>

Box 3.2. Acts in recruitment as prohibited by one or more countries in the ASEAN	
Recruiting without a license	Keeping a workers' personal documents (ID, passport)
Transferring or assigning one's license to others	Withholding travel documents prior to departure unless the worker pays more money
Charging worker (more than the legal maximum fees)	Discriminating in job placement
Failing to issue receipts for fee payments received	Placing workers where their rights are not protected
Publishing false information (related to jobs)	Obstructing inspection by labour inspectors
Sending workers without valid work permits	Recruiter engaging in travel business at the same time
Engaging in trafficking in persons	Recruiting under-age workers
Placing workers in harmful jobs	Lending money to workers at an interest rate above the legal limit
Substituting an approved employment contract with an inferior contract	Compelling the use of specific clinics/ training centres

<sup>59</sup> Drawn from chapter 4 in 'Achieving fair and ethical recruitment; Improving regulation and enforcement in the ASEAN region', ILO (2022).

### 3.2.3 Creating transparency in recruitment

Operational guideline 4.3 of the ILO GPOG states that 'legislation should apply to the act of recruitment and not only to some categories of labour recruiters but also to all recruiters operating outside any specific regulatory framework' (i.e. including informal sub-agents) and 'regulations should not only apply to the formal economy, but to recruitment for all kinds of work'.

The UK's *Gangmasters Licensing Act against Abuse (GLAA) of foreign labourers* is worth mentioning in this regard as it spells out as a criminal offence (a) to operate without a recruitment licence, and (b) for employers to use the services of an unlicensed recruiter. The Act even has an extra-territorial dimension in that it requires recruitment agencies in countries of origin that link up with the UK to also apply for a license with the GLAA authority. This type of pro-active legislation contributes to creating transparency in recruitment, compared to countries that have a licensing system for private employment and recruitment agencies, and that also feature informal sub-agents that those countries appear to condone where inspectorates are not monitoring them.<sup>60</sup>

Canada offers another example: Its Manitoba Province issued the Manitoba Worker Recruitment and Protection Act (2008) which prohibits the charging of recruitment fees to workers and prohibits employers from recovering recruitment-related costs from workers.<sup>61</sup> Like in the UK, any private recruitment agency in Manitoba Province is required to have a valid licence. Licensing requirements include the payment of substantial bonds against possible migrant worker claims. Also, any recruiter must hold a professional license through membership of a professional association that issues accreditation, so any abuse by a recruiter also puts this professional license at risk. Employers who host migrant workers also have to register, and are obliged to obtain migrant workers through licensed PRAs (or recruit directly). Both recruiters and employers are required to have detailed documentation in place. This offers transparency and facilitates effective monitoring by the Employment Standards Branch (ESB). The ESB conducts upfront investigations of recruiters at the time of registration. It even interviews migrant workers upon arrival in Canada, and again, later on during workplace visits that are targeted based on risk factors.<sup>62</sup>

Further examples of regulations for transparency in business operations pertaining to recruitment are offered by the Modern Slavery Acts in Australia (2018) and the UK (2015). Under these Acts, large private companies are required to regularly publish a modern slavery statement detailing their efforts to prevent modern slavery in their supply chains, including prevention of recruitment into debt bondage.

<sup>60</sup> For more details, see Annex 3 of the 'Technical Brief; Labour inspection and monitoring of recruitment of migrant workers', ILO (2022) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_854142.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_854142.pdf).

<sup>61</sup> Leanne Dixon-Perera, Regulatory approaches to international labour recruitment in Canada, (Policy Research, Research and Evaluation Branch, Immigration, Refugees Citizenship Canada), June 2020.

<sup>62</sup> For more details, see Annex 4 of the 'Technical Brief; Labour inspection and monitoring of recruitment of migrant workers', ILO (2022) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_854142.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_854142.pdf).



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**(a)** to operate without a recruitment licence and;



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The Act even has an **extra-territorial dimension** in that it requires recruitment agencies in countries of origin that link up with the UK to also apply for a license with the GLAA authority.

This type of pro-active legislation contributes to **creating transparency in recruitment.**

### 3.2.4 Defining recruitment fees and related costs and prohibiting their payment by workers

A specific way of enhancing transparency is to define and itemize recruitment fees and related costs. These are any costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection. Prohibiting direct or indirect charging of recruitment fees to workers – including migrant workers – as expressed in principle 7 of the ILO GPOG (and article 7(1) of the ILO Private Employment Agencies Convention, 1997 (No. 181)), is a safeguard against forced labour and an incentive for well-functioning labour intermediation services and better labour market outcomes.

The ILO definition of recruitment fees and related costs spells out a series of cost categories<sup>63</sup> (including the service fee, and costs related to health care, insurance, skills testing, training and orientation, equipment travel and administrative costs (including those for a visa and work permit) that may be further developed by national governments in consultation with social partners.<sup>64</sup> *Itemizing recruitment fees and related costs* along these lines contributes to creating transparency and cost efficiency in recruitment, and helps to uncover illegitimate, unreasonable, and undisclosed costs such as those paid for visa trading (which is unlawful in many destination countries and is yet still reported to happen), kickbacks and bribes.

In line with the adopted ILO GPOG, a range of countries have prohibited the payment of recruitment fees and costs by both nationally and internationally recruited workers and/or have introduced a typology of costs.<sup>65</sup> While that may be the case, the ILO Committee of Experts on the Application of Conventions and Recommendations has observed<sup>66</sup> – in a range of national legislations – unclear exceptions to the prohibition of charging recruitment fees and unclear measures for prohibiting payment of recruitment fees and costs.



<sup>63</sup> In section 12 of the ILO definition of recruitment fees and related costs (2018).

<sup>64</sup> See section 11 of the ILO definition of recruitment fees and related costs (2018).

<sup>65</sup> According to an ILO study (2018) of 90 national policies, the majority prohibit fees for 'workers' (63 policies) while 44 of these policies cover both national and cross-border recruitment (44 policies); 36 countries regulate fees and related costs; 27 countries have full or partial definitions of recruitment fees and related costs; 66 countries have legal provisions to sanction violations of policies on fees and related costs. For more see <https://www.ilo.org/infostories/en-GB/Stories/Labour-Relations/fair-recruitment#costs/national-laws>. An updated version of the 2018 report will be available in 2024.

<sup>66</sup> See analysis of CEACR commentary by the ILO Migration branch in 2023.

### Examples of national laws and policies defining recruitment fees and cost



**Mexico** is one of a growing list of countries that explicitly prohibits the charging of recruitment fees to workers, as per article 5 of the 2006 Worker Placement Agencies Regulation. In addition, article 10 (I and II) of the same regulation also prohibits the charging of workers for job advertisement, job application processing, training costs, and other related costs. In addition, article 28(1) of the Federal Labour Law of Mexico – as amended in 2019 – stipulates that the labour contracts of Mexican migrant workers abroad must provide that the employer bears any repatriation costs. Also, if a worker is subject to fraud in working conditions in a job abroad, the private recruitment agency will be responsible for repatriation costs.<sup>67</sup>



Similarly, **Egypt** spells out the cost of travel to be paid by employers abroad, and labour inspectors have been trained by ILO (in 2023) in monitoring the performance of recruitment agencies that place Egyptian migrant workers abroad accordingly.



In expanding legal pathways for migration, the **USA** has introduced temporary work programmes for agricultural and non-agricultural migrant workers under respectively the H-2A and H-2B programmes. These programmes bind US employers to requirements such as bearing the costs of transportation and recruitment of migrant workers and encourage them to cut ties with unscrupulous recruiters (given criminal prohibitions related to forced labour and benefitting from forced labour) and instead involve recruiters engaged in fair recruitment.<sup>68</sup> These guidelines call for countries of origin of migrant workers to respect ILO fair recruitment guidelines when recruiting for the USA.

With regards to domestic work – and following the adoption of the ILO Domestic Workers Convention (No. 189) in 2011 – a number of countries have introduced specific laws aimed at protecting basic rights of domestic workers. Qatar's Domestic workers law No. 15 (2017) spells out (in section 8) that *'an employer shall be prohibited from deducting any fees, expenses or commissions from a worker's wage in return for the procedures of recruitment from abroad'*. Also, the employer is prohibited from demanding payment from the worker for any expense related to recruitment including recruitment fees, airfare, medical tests, and visa fees. Section 14 specifies further that a domestic worker shall be entitled, for every two years of service, to a return air ticket to his/her country of origin or place of residence to go on holiday.

<sup>67</sup> See [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_744521.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_744521.pdf) (footnote 33) covering the Estados Unidos Mexicanos (1970) Ley Federal del Trabajo, article 28.

<sup>68</sup> See 'Guidance on fair recruitment practices for temporary migrant workers', US DOL/US DOS/USAID (2022).

### 3.2.5 Mainstreaming fair recruitment in existing policies or developing national policies for fair recruitment

In addition to reform of national laws and regulations, countries may mainstream 'fair recruitment' into existing policies such as those on employment, fair migration, forced labour and trafficking in persons, or develop policies on fair recruitment – building on ILO conventions Nos. 88, 122 and 181.<sup>69</sup>

Operational guideline 3.1 of the ILO GPOG states that *'governments should consider setting out a clear policy expressing the expectation that all enterprises domiciled or operating in their territory or jurisdiction respect human rights, including workers' rights, and the law on recruitment throughout their operations, including in supply chains'*. The commentary under principle 2 of the UNGP states further that *'there are strong policy reasons for home States to set out clearly the expectation that businesses (also) respect human rights abroad, especially where the State itself is involved in or supports those businesses'*. The reasons include ensuring predictability for business enterprises by providing coherent and consistent messages and preserving the State's own reputation.

In meeting their duty to protect, States should (according to UNGP principle 3):

- a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps.
- b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights.
- c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations.
- d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.<sup>70</sup>

In considering policies that fit the local context, and that capitalize on current modalities (be it statutory (i.e., prohibiting private labour recruiters and employment agencies; licensing them; or registering them) or voluntary self-regulation mechanisms with some oversight by the State), governments may consider strengthening these existing modalities and/or diversifying them by allowing for a combination of public and private employment services. A framework for an effective regulation of employment services is provided by the Employment Service Convention, 1948 (No. 88) and the Private Employment Agencies Convention, 1997 (No. 181). Through ratification and application of these conventions, ILO member States may support a human-centred approach that benefits all through optimally functioning labour markets. The Conventions promote:

- Trusted placement and recruitment services.
- A better match of skills to business needs.
- Balanced rules that enable businesses and protect workers.
- Responsible and fair recruitment.
- Reduction of informal employment.

<sup>69</sup> i.e. ILO Employment Services Convention, 1948 (No. 88), Employment Policy Convention, 1964 (No. 122) and Private Employment Agencies Convention, 1997 (No. 181).

<sup>70</sup> See also articles 11 and 12 of the ILO Private Employment Agencies Convention, 1997 (No. 181).

The employment services Convention, 1948 (No. 88) also emphasizes the coordination role played by public employment services. It calls for 'cooperation with public and private bodies to ensure the best possible organisation of the labour market for achieving and maintaining full employment and for developing and deploying productive resources' (article 1).

In targeting policies for fair recruitment, governments may also develop policy action in sectors where workers are known to be especially vulnerable, such as Italy, which has developed a National Action Plan<sup>71</sup> to tackle labour exploitation in agriculture – see box 3.3.

### ► Box 3.3. Italian National Action Plan to tackle labour exploitation in agriculture

The Italian National Action Plan to tackle labour exploitation, unlawful recruitment and forced labour in the agriculture sector comprises 10 priority actions. It presents fair recruitment as part of a comprehensive strategy to tackle labour exploitation and forced labour, which helps to mobilize the contribution of a wide number of actors. An alliance between public and private providers of intermediation services operates in line with principles of fair recruitment, while mobile units bring recruitment services in proximity of agricultural fields and displace 'gangmasters'. Both recruiters and employers, by law, are held liable for unlawfully recruiting workers, and face civil and penal sanctions in case of spotted irregularities.

National policies for fair recruitment may include attention to public procurement modalities. The ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and its accompanying Recommendation, 1949 (No. 84) offer guidance in this regard as they make a direct link between core labour standards and public procurement and address the inclusion of social clauses in public contracts.<sup>72</sup> Along the lines of this convention, the public procurement strategy of Scotland<sup>73</sup> promotes 'Fair Work First' as objective and expects public bodies to implement and promote Fair Work First in all relevant procurement processes. It expects suppliers delivering public contracts to adopt and demonstrate appropriate fair work practices, for all workers engaged in delivering the public contract.

More specifically geared towards fair 'recruitment', the USA Federal Acquisitions Regulation (FAR)<sup>74</sup> contains specific provisions on combating trafficking in persons and describes nine prohibited trafficking activities, including charging recruitment fees to employees, using misleading or fraudulent practices during recruitment of employees, and making material misinterpretations regarding the key terms and conditions of employment.

71 For more details, see [https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS\\_778825/lang-en/index.htm](https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS_778825/lang-en/index.htm).

72 See *The Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No. 84), A practical guide*, ILO (2008). The ILO guide explains that ILO Convention No. 94 'requires bidders to be informed in advance, by means of standard labour clauses included in tender documents, that, if selected, they would have to observe in the performance of the contract wages and other labour conditions not less favourable than the highest minimum standards established locally by law, arbitration or collective bargaining. Bidders should prepare their offers accordingly'. The Convention proposes a common level playing field – in terms of labour standards – for all economic actors, and thus promotes fair competition and socially responsible procurement.

73 See <https://www.gov.scot/publications/public-procurement-strategy-scotland-2023-2028/>.

74 The USA Federal Acquisitions Regulation (FAR) applies to procurement by US federal agencies and recipients of federal funds.

## 3.2.6 Bilateral, or multilateral, collaboration and action for fair recruitment in migration corridors

The ILO GPOG emphasises in principle 6 the importance of effectively integrating international standards into transnational recruitment practices. This entails the development of specific policies to ensure fair recruitment and labour migration within corridors or witing regions.

In the absence of a mechanism to monitor for fair recruitment internationally – as is the case with regards to monitoring for fairness in trade of goods and services by the WTO – Bilateral Labour Agreements (BLAs) among countries of origin and destination of migrant workers may enable supervision of labour migration within a specific corridor. While many BLAs are in place across the world, few of them currently include attention to fair recruitment (and often lack a definition of recruitment fees and costs and prohibition of payment by migrant workers), modalities for monitoring of compliance, and access to remedy.<sup>75</sup>

One example of a BLA that does include attention to fair recruitment is the BLA between the United Kingdom and Kenya on healthcare workers, even though it does not define recruitment fees and related costs. The agreement aims to regulate recruitment to combat unfair recruitment practices, uphold non-discrimination between Kenyan Healthcare workers and their UK counterparts, ensure that labour migration of Kenyan Healthcare workers is in line with labour market needs, and ultimately enhance bilateral cooperation between both countries.<sup>76</sup>

Other example of bilateral cooperation include the Mexico-Canada Seasonal Agricultural Worker Programme, which ensures that migrant seasonal agricultural workers from Mexico are fairly recruited to Canada and are also recruited in response to Canadian labour market needs.<sup>77</sup> Similarly, an agreement between Jordan and Nepal which resulted in replication (see box 3.4)<sup>78</sup> and Guatemala and the USA are implementing a bilateral labour agreement for placement in agricultural and non-agricultural work (see box 3.5). It includes particularly specific information on recruitment fees and costs and cost coverage.<sup>79</sup>

75 See 'Bilateral agreements and memoranda of understanding on migration of low skilled workers: a review', ILO (2015) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_385582.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_385582.pdf).

76 See '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 healthcare workforce', available at 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 healthcare workforce (text only) - GOV.UK ([www.gov.uk](http://www.gov.uk)) and [https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS\\_840214/lang-en/index.htm](https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS_840214/lang-en/index.htm).

77 See 'Contract for the employment in Canada of seasonal agricultural workers from Mexico – 2023', available at Contract for the employment in Canada of seasonal agricultural workers from Mexico – 2023 - Canada.ca.

78 See [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_778826.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_778826.pdf).

79 See <https://www.state.gov/wp-content/uploads/2020/04/20-207-Guatemala-Migration-and-Refugees-7.30.2019.pdf> and <https://gt.usembassy.gov/the-united-states-and-guatemala-sign-agreement-to-improve-h-2-visa-program-operation/>.

► **Box 3.4. Bilateral labour agreement between Jordan and Nepal covers fair recruitment**

Following tripartite discussion, the governments of Nepal and Jordan signed a bilateral labour agreement in 2017\*. The agreement includes sections on key responsibilities of both parties, and monitoring through a joint working committee. Other key provisions include:

- ▶ Freedom of movement (no withholding of passports).
- ▶ Freedom to change employers (conditional).
- ▶ Costs relating to recruitment of workers are borne by employers.
- ▶ Workers are protected against unfair practices, harassment, abuse, forced labour and exploitation.
- ▶ Access to a dispute resolution mechanism, to health care benefits and to adequate food and housing.
- ▶ Standard employment contracts to promote transparency (one for general workers; and another for domestic workers).
- ▶ Equality of treatment.

\* The agreement with Jordan was among the first in Asia that is in line with the ILO GPOG and served as a model for bilateral agreements that Nepal later negotiated with Malaysia, Mauritius and the United Arab Emirates (UAE).

► **Box 3.5. Bilateral agreement between Guatemala and the USA**

In 2019, the Governments of Guatemala and the USA signed an agreement for a Temporary Agricultural Workers programme, which strengthens bilateral cooperation and provides thousands of temporary employment opportunities to Guatemalan migrant workers through H2-A visas. In 2020, this agreement was expanded to also include H2-B visas in the non-agricultural sector. According to the agreement, the charging of recruitment costs is forbidden, which includes according to article 'any payment of any kind for any activity related to the workers obtaining or maintaining H-2A or H-2B visa programme status. Prohibited payments include, but are not limited to, costs associated with applications for H-2A or H-2B temporary labour certification, petitions for H-2A or H-2B classification. H-2A or H-2B visa applications, and costs of transport and admission to the USA. Costs of return transportation to the recruitment location in Guatemala (including food expenses), shall be borne by the worker's last U.S. employer if the worker is terminated by the employer without justifiable cause (i.e., through no fault of the worker) or otherwise completes the work in accordance with the terms of her/his employment contract. Such payments also include direct or indirect payment of attorneys' fees, application or petition preparation and filing fees, or recruitment costs'.

Fair recruitment can also be promoted through multilateral cooperation, in particular within the context of regional integration processes and organizations. For example, the Los Angeles Declaration on Migration by 21 countries of the Organization of the American States offers an example of policy making for fair recruitment in a multi-country corridor – see box 3.6.<sup>80</sup>

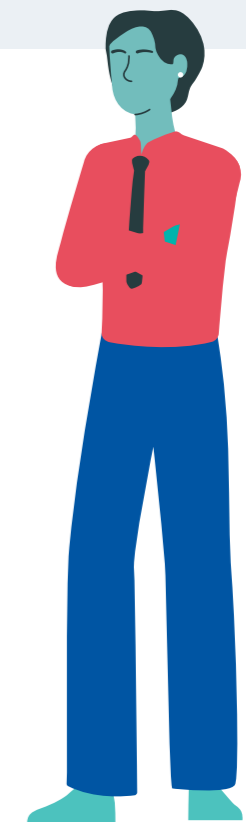
► **Box 3.6. Los Angeles Declaration on Migration (June 2022) includes provisions for fair recruitment**

During the Americas Summit of the Organization of American States (OAS) in Los Angeles (June 2022), 21 countries in the Americas adopted the Los Angeles Declaration on Migration. The Declaration – which builds on the GCM and aligns with the ILO FPRW and the ILO GPOG – reiterates the shared will to strengthen national, regional, and hemispheric efforts to create the conditions for safe, orderly, humane, and regular migration and to strengthen frameworks for international protection and cooperation and states. The Declaration includes agreement to work together across the hemisphere to: *'Strengthen and expand temporary labour migration pathways, as feasible, that benefit countries across the region, including through new programmes promoting connections between employers and migrant workers, robust safeguards for ethical recruitment, and legal protections for workers' rights'*.

As the USA is a major destination country for migrant workers it issued an accompanying guide entitled *Guidance for Fair Recruitment Practices for Temporary Migrant Workers (2022)* which details the obligations of US-based employers regarding the use of recruiters and the working conditions of temporary migrant workers. In addition, it provides rules and procedures to improve recruitment practices and ensure fair recruitment along the El Salvador, Honduras, Guatemala, and Mexico to USA labour migration corridor.

Countries of origin in the same migration corridor have implemented complementary initiatives, such as the Guatemala Temporary Work Programme (launched in 2021), which aims to enhance governance of temporary labour migration and eliminate unfair recruitment, forced labour and trafficking in persons for labour exploitation.

Another example of regional action to promote fair recruitment is the [African Union Migration Policy framework and plan of Action \(2018-2030\)](#) which called for national labour migration policies, structures and legislation to promote and implement fair and ethical recruitment – see box 3.7.



<sup>80</sup> See <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/>.

### ► Box 3.7. African Union Migration Policy Framework (2018-2030)

The AU Revised Migration Policy Framework and Plan of Action (2018-2030), concludes a set of relevant recommended strategies for the achievement of fair recruitment in practices, calling for national labour migration policies, structures and legislation, among others, to:

- ▶ 2.1 (ii): Create transparent (open) and accountable labour recruitment and admission systems, based on clear legislative categories and immigration policies that are harmonised with labour laws;
- ▶ 2.1 (iv): Align national laws, policies and regulations; bilateral and multilateral agreements; and voluntary codes of conduct with the ILO General principles and operational guidelines for fair recruitment;
- ▶ 2.1 (vi): Monitor and enforce compliance with recruitment regulations, including standardised contracts of employment which are free, fair, fully consented to, transparent and enforceable;
- ▶ 2.1 (vii): Promote consolidation and professionalisation in the recruitment industry, reigning in the maze of subagents that are often involved, with the aim of turning (public and private) recruiters into comprehensive “one-stop shops” for employers and migrants, offering comprehensive services, including training and skills certification, job placement and travel arrangements.
- ▶ 5.2 (ii): Explore opportunities to put special procedures in place for citizens working overseas, including limiting recruitment fees; introducing licensing requirements, contract registration and review/approval mechanisms that only allow businesses to send workers abroad once a contract is approved by the authorities; putting in place measures to better secure the rights of workers, including frequent labour inspections, due payment of wages, banning deductions from wages for accommodation, and introducing severe ban periods and fines for employers who violate labour requirements.

In Asia, important recruitment related provisions are included in the [“ASEAN Consensus on the protection and promotion of the rights of migrant workers”](#) which stipulates the general principles, fundamental rights of migrant workers and members of their families, specific rights of migrant workers, obligations and commitments of ASEAN Member States. It aims to establish a framework for closer cooperation among member states on addressing migrant workers issues in the region. While it is non-legally binding, the ASEAN Consensus is considered a living and evolving document. The Consensus has been recently followed by the [ASEAN Declaration on the Protection of Migrant Workers and Family members in crises situations and its Guidelines](#), which encourage its Member States, among others to “ensure a continuing safe labour migration and prevent a potential increased risk of illegal recruitment activities in crisis affected areas which may lead to unsafe labour migration, forced labour, trafficking of migrants”.

### 3.2.7 Public employment services

Governments may offer job-matching services to employers and workers through public employment services. Operating on their own or in collaboration with other labour market actors (such as private employment and recruitment agencies), these government services offer supply in facilitating recruitment, retaining jobs, supporting enterprises, and growing the workforce. In governing public employment services, States may draw guidance from the earlier mentioned Employment Services Convention, 1948 (No. 88). This convention calls on governments to *‘ensure the provision of publicly funded employment services that match people to jobs, support those wishing to make a career change, and support those who want to start their own business’*. The convention requires that public employment services remain cost-free for their clients and open to everyone who needs support in searching for employment or in hiring workers.

Given high-levels of informality on recruitment markets in many country contexts and social exclusion faced by many, it should be highlighted further that the convention promotes the participation of groups who face challenges linked to gender, age, disability, race, ethnicity and migration status, among other factors.<sup>81</sup>

To facilitate fair recruitment across borders in established labour migration corridors, public employment services of the involved countries of origin and destination should collaborate, and this should include attention to monitoring for fair recruitment.<sup>82</sup>

Public employment services may be offered electronically. E-based recruitment through a publicly funded central clearing house may facilitate fair recruitment as it contributes to minimizing the number of involved intermediaries. Europe’s electronic intra-regional jobs portal is an example of such an E-platform – see box 3.8.

### ► Box 3.8. EURES: Europe’s publicly funded jobs portal

In Europe, the public employment services of all the 28 countries of the European Union (EU) plus Switzerland, Iceland, Liechtenstein and Norway (along with the European Commission and the European Labour Authority (ELA)) have come together in a cooperation network for public employment services called EURES. EURES is a publicly funded jobs E-portal to facilitate free movement of workers within Europe. It does so by providing information and employment support services to workers and employers, and by enhancing cooperation and information exchange between its member organizations. The system is operated through around 900 EURES employment advisors who maintain regular contact with employers and possible employees. EURES offers services in multiple languages, and includes 3,9 million vacancies, over a million CVs of candidate workers, and over 5 thousand registered employers.

<sup>81</sup> For more on the importance of Employment Services Convention, 1948 (No. 88), see [https://www.ilo.org/wcmsp5/groups/public/-ed\\_emp/-emp\\_ent/documents/publication/wcms\\_829996.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_emp/-emp_ent/documents/publication/wcms_829996.pdf).

<sup>82</sup> See p. 10 in *Regional study on defining recruitment fees and related costs: The Americas*, ILO (2020) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_744521.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_744521.pdf).

### 3.2.8 Registering or licensing private employment and recruitment agencies and supporting their compliance

Where countries have opted to allow private employment and recruitment agencies, these need to be adequately regulated, registered or licensed for transparency's sake. This would 'allow workers and other interested parties to verify the legitimacy of recruitment agencies and placement offers' (see ILO GPOG operational guideline 4.2), while enabling labour inspectors to monitor the performance of the specific recruitment actor.

Such registration or licensing systems offer opportunities to thoroughly scrutinize candidate recruitment agencies, assess their capacities, and impose fair recruitment principles. For instance, in the Philippines,<sup>83</sup> candidate recruitment agencies are vetted through interviews with staff of the Philippines Overseas Employment Agency prior to obtaining a license for recruitment. Importantly, licenses are issued to recruitment agencies that adhere to a code of conduct for ethical recruitment, and inspectors can monitor against this code.

Once operational, these licensed/registered employment and recruitment agencies need to be monitored to ensure adherence to regulations (see next section), and they may need to be guided towards mature, fair recruitment models through compliance advocacy by labour inspectorates or other competent authorities and/or codes of conduct. The Tunisian authorities and ILO have for instance experimented with an approach envisaging private recruitment agencies holistically and offering tools for compliance with principles of fair recruitment, including model contracts, prudential checklists and a compliance guide.<sup>84</sup>

### 3.2.9 Monitoring and enforcement of regulation for fair recruitment

Developing institutional capacity to monitor and enforce fair recruitment principles is critical to making fair recruitment a reality for all workers, including migrant workers. Labour inspectorates (and related authorities) are expressly referred to in the ILO GPOG as integral to enforcing recruitment regulations in both countries of origin and destination. The ILO Labour Inspection Convention, 1947 (No. 81) spells out (in article 3(1)) the functions of labour inspectorates to 'secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in work'. This implies that labour inspectors should operate to uphold labour rights, under the labour

#### For reflection:

As per the ILO Labour Inspection Convention No. 81, labour inspectors should 'secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in work'. They should thus operate to uphold labour rights, under the labour law and any other relevant laws – such as specific legislation pertaining to forced labour and the anti-trafficking law – and these may include the right to freedom from abusive recruitment induced forced labour.

law and any other relevant laws – such as specific legislation pertaining to forced labour (often mentioned in a country's Constitution) and the anti-trafficking law – and these may include the right to freedom from abusive recruitment induced forced labour.<sup>85</sup> In addition, the ILO Private Employment Agencies Convention, 1997 (No. 181) spells out a role for the labour inspectorate (or other competent public authorities) in supervising private employment and recruitment agencies.<sup>86</sup> Following their monitoring, enforcement may entail the issuance of warnings to address concerns within a deadline, the imposition of fines, the suspension or cancellation of a license, the order for closure of an agency or the blacklisting of the violator(s).

Various countries of origin of migrant workers have tasked specific labour inspectors or compliance officers to monitor and, where necessary sanction, private employment and recruitment agencies that place their nationals abroad. They include the Philippines, which has trained compliance officers under the Philippines Overseas Employment Administration (POEA). They monitor licensed recruiters against recruitment abuses that are prohibited by law and against a code of conduct for ethical recruitment that licensed recruiters need to adhere to. Other relevant procedures include the screening of employers abroad by labour attachées prior to any placement, joint and several liability for licensees, an escrow deposit by recruiters against possible legal claims by migrant workers, and the regular updating of a publicly available list of recruiters with information on sanctions and/or rewards.

Tunisia<sup>87</sup> offers another example of a country of origin of migrant workers that has created a special inspectorate that is mandated to monitor and sanction private employment and recruitment agencies that place Tunisian migrant workers abroad. The creation of this special inspectorate follows from the validation of a recruitment law (i.e. 'Law on the organization of the exercise of the activities of placement of Tunisians abroad by private agencies') by the Ministerial Council. This law – once adopted by the national assembly – will extend the State's authority to deliver sanctions against private recruitment agencies, spell out the essential elements that must be clearly mentioned in any employment contract and prohibit the charging of recruitment fees from migrant workers.

Under the labour law of Egypt (2003), PRAs may place Egyptian migrants abroad for work. The related Decree 135 regulates the licensing and monitoring of PRAs and spells out the need for employment contracts and the need for employers abroad to cover travel costs of Egyptian workers. In 2023, Egypt performed a review of these regulations in light of the ILO GPOG, and embarked on ILO supported training of 2 batches of in total 69 labour inspectors with a focus on monitoring private recruitment agencies for fair recruitment. This included a review of employment contracts in line with the Annex to ILO Recommendation No. 86 (see below) and attention to warning signs of possible labour abuse as per box 3.9.

Various countries of origin of migrant workers have tasked specific labour inspectors or compliance officers to monitor and, where necessary sanction, private employment and recruitment agencies that place their nationals abroad.

<sup>83</sup> See Annex 1 of the 'Technical Brief; Labour inspection and monitoring of recruitment of migrant workers', ILO (2022) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_854142.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_854142.pdf).

<sup>84</sup> See the following ILO publications: 'Élaboration d'un modèle économique pilote pour les établissements privés de placement à l'étranger en Tunisie' and 'Tunisie: Guide de conformité de l'établissement privé de placement à l'étranger: De la conformité réglementaire à la performance' (both 2023).

<sup>85</sup> See article 2d of ILO Forced Labour Protocol P29 (2014).

<sup>86</sup> See article 14 of ILO Convention. For further detailed guidance, see ILO Guide to private employment agencies: Regulation, monitoring and enforcement (2007).

<sup>87</sup> See [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_778828.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_778828.pdf).

► **Box.3.9. From ILO training in Egypt:**  
**How to monitor private recruitment agencies (PRAs) for (un)fair recruitment**

Examples of warning signals or alarm bells (to beware of when conducting monitoring of PRAs)	
No valid license of PRA	No convincing story on matching appropriate migrant workers with jobs
Frequent name changes of PRA	No policy to ensure FR
Incomplete filing system	PRA not in contact with migrant workers
Fiddling with records	PRA takes no remedial action after MW complaint
PRA keeps passports	Involvement of middle-men or sub-agents
Incomplete (or absent) employment contracts	Job description and work visa don't match
Placement of illiterate workers who do not know their terms and conditions of work	No informed consent by migrant workers
Migrant workers paid high fees	Abuse of migrant workers (use of threats/force/psychological pressure to accept job)
Migrant workers with substantial loans	Placement with labour supply company without clarity on further work placement elsewhere
No proof of employer payments for recruitment (e.g., airplane ticket, visa)	Placement in banned job / sector / country

Along similar lines, countries of destination of migrant workers, including Qatar and Kuwait, have built the capacity of their labour inspectorates in identifying forced labour through workplace monitoring. The ILO supported trainings included attention to spotting warning signs related to 11 indicators of forced labour, many of which can be associated with abusive recruitment. Box 3.10 provides a summary of essential warning signs per indicator of forced labour and a number of them directly relate to abusive recruitment.

► **Box 3.10. Drawn from ILO training in Qatar and Kuwait:**  
**Warning signs that may indicate abuse related to forced labour and unfair recruitment**

Indicator of forced labour	Related warning signs
Placement in isolation	Worker has been placed away from habitation and finds it hard (or is not allowed) to get to town on her/his day off
Restriction of freedom of movement	Worker has been placed to work and live on the worksite, face curfews and lack termination clauses in their contract
Retention of personal documents	Worker does not have private locker or the employer keeps the workers passport
Abusive/bad working conditions	Placement in unhealthy and hazardous work without protection; living on the worksite without privacy
Violence	Worker has signs of physical violence (e.g., bruises); shows signs of mental confusion, anxiety or fear
Threats and intimidation	Worker is subjected to disciplinary measures, to threats of denunciation to the authorities (for absconding)
Abuse of vulnerability	The worker is a migrant with irregular status
Excessive overtime	The worker is on call 24/7; working time is loosely defined or bound to production targets rather than hours worked
Withholding or no payment of salary	Workers' ATM card is in the possession of the supervisor; overtime and holiday time is not paid; worker is paid in cash and there is no proof/receipt of payment
Debt and bondage	Deductions from monthly salary; worker pays back loans to the employer
Deception	Worker has no employment contract or one that is poorly defined Worker performs work that is different from the visa category

For more on the indicators, see 'ILO indicators of forced labour' (2008).



Private employment and placement agencies at destination could be monitored for fair recruitment in similar ways. The earlier mentioned GLAA in the UK has the mandate to inspect both recruitment agencies and workplaces at destination, and monitors against recruitment abuse in line with legislation. Enforcement officers have police-like authority, including the power to arrest.<sup>88</sup>

Inspections may also happen jointly by countries of origin and destination in established labour migration corridors. The European Labour Authority (ELA) offers a practitioners guide for concerted and joint inspections across borders.<sup>89</sup> It includes attention to **indicators of abuse in recruitment and employment**, such as:

- ✓ Absence of work/residence authorisation.
- ✓ Evidence/lack thereof of rest periods of paid holidays.
- ✓ Absence of a signed contract or numerous contracts with different people.
- ✓ Lack of knowledge of the terms of the signed contract or contract was finalised in absentia.
- ✓ Unclear means of transportation to destination country or worker facilitating their means of transportation.
- ✓ Inability to control mobility to and from the workplace.
- ✓ Multiple work sites for a migrant worker, i.e. when a migrant worker works in different work sites.
- ✓ Unclear overtime regulations.
- ✓ Unclear means of wage calculation and overtime calculation.
- ✓ Non-repayment of work/related expenses, i.e. buying tools, work gear, etc.
- ✓ Lower wage than the average wage for the sector in the country, or lower wage than the national minimum wage.
- ✓ Lack of registration with the embassy or consular office of the home country.
- ✓ Poor living conditions in employer provided accommodation.
- ✓ Rent deductions from wages.
- ✓ Discrepancy between the signing date of the contract and the date of commencement.
- ✓ Unclear salary payment modalities.

<sup>88</sup> For more details, see Annex 3 of the 'Technical Brief: Labour inspection and monitoring of recruitment of migrant workers', ILO (2022) at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_854142.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_854142.pdf).

<sup>89</sup> Practitioners' toolkit: Cross-border concerted and joint inspections, ELA (2020) at <https://op.europa.eu/en/publication-detail/-/publication/259f14f0-3e5b-11ea-ba6e-01aa75ed71a1/language-en>.

### 3.2.10 Targeting of law enforcement efforts

Gathering and analyzing data, sharing information, and conducting data-mining are crucial for more effective targeting of law enforcement efforts by labour inspectorates and related authorities. A number of countries have put significant resources into developing an efficient risk assessment architecture. In Belgium, for example,<sup>90</sup> the Social Inspection Services Anti-Fraud Organization (OASIS) develops red flags to identify individual targets for inspection. OASIS monitors seemingly simple company and employee data (e.g., turnover, number of employees, registered personnel, wage levels, etc.) but can generate actionable indicators and detect abnormalities by looking for specific trends (e.g., increasing turnover with decreasing number of employees; reduction of registered staff above a certain threshold; large differences in total wage sums and numbers of employees; labour mobility, etc.) and thus target specific places for inspection.

Along similar lines, the European Labour Authority (ELA) has developed a risk assessment tool to proactively analyze a variety of data sets for indications of possible abuse **prior** to inspection. This facilitates the targeting of forthcoming inspections to places that are suspect – see box 3.11.

**Box 3.11. European Labour Authority (ELA) – Potential indicators and red flags for effective risk assessment<sup>91</sup>**

Salary	<ul style="list-style-type: none"> <li>• Below average salary for sector/profession</li> <li>• Workers on minimum salary</li> <li>• Low wage but large boarding/lodging/transport costs</li> </ul>
Turnover and profit	<ul style="list-style-type: none"> <li>• Turnover and number of employees mismatch</li> <li>• Turnover below the minimum turnover threshold per sector/company size</li> <li>• Zero or very low profit (e.g., max. 25 per cent after 2-3 years of activity)</li> <li>• Low profit coupled with high consumption or investment in non-productive assets</li> </ul>
Working time	<ul style="list-style-type: none"> <li>• 25-50 per cent are part-time employees</li> <li>• Part-time contracts are less than 4 hours/week</li> </ul>
Type of contract	<ul style="list-style-type: none"> <li>• High number of short-term contracts</li> <li>• Sudden changes from employees to self-employed (working for the same payer)</li> </ul>

<sup>90</sup> See 'Toolkit on risk assessment for more efficient inspections as a means to tackle undeclared work' (ELA), 2019 at <https://op.europa.eu/en/publication-detail/-/publication/4fe9edda-4c56-11e9-a8ed-01aa75ed71a1/language-en>.

<sup>91</sup> These are drawn from the table on page 16 of 'Toolkit on risk assessment for more efficient inspections as a means to tackle undeclared work' (ELA), 2019 at <https://op.europa.eu/en/publication-detail/-/publication/4fe9edda-4c56-11e9-a8ed-01aa75ed71a1/language-en>.

Box 3.11. (cont.)	
History and registration inconsistencies	<ul style="list-style-type: none"> <li>• Past infringements, fines, penalties</li> <li>• Newly established companies</li> <li>• Large number of companies located/registered at the same address</li> </ul>
Subcontracting intermediaries	<ul style="list-style-type: none"> <li>• Large number/high turnover of subcontractors</li> <li>• Large number of 'go-betweens' without license acting as temporary work agencies</li> </ul>
Staff changes	<ul style="list-style-type: none"> <li>• High staff turnover (over 10 per cent a month) and mismatch with a low overall number of workers</li> </ul>
Risk sectors	<ul style="list-style-type: none"> <li>• Companies in high risk sectors (e.g., construction, agriculture)</li> </ul>
Bogus posting and use of insolvency	<ul style="list-style-type: none"> <li>• Multiple workers living at the same address</li> <li>• Undertakings that 'disappear' while the owners register new ones; Suddenly declared insolvency</li> <li>• 'Circle' posting of workers at different work sites</li> </ul>
Direct observations/signals	<ul style="list-style-type: none"> <li>• Firms/sectors cited in the received complaint</li> <li>• Firms/sectors identified (earlier) as risky by inspectors and other authorities on the ground</li> </ul>

The example in box 3.11 also highlights the importance of access to quality data and information from a variety of sources, without which it is hard to target inspections.

### 3.2.11 Employment contracts and verification

Deception about the nature of jobs or working conditions is one of the manifest forms of unfair recruitment. The ILO GPOG (in principle 8) stress the importance of knowing the conditions of employment beforehand, preferably through verifiable, clear, and transparent contracts, written in the language the worker understands and provided sufficiently before departure from the country of origin. Standardised contracts should offer clarity and transparency in terms of rights and responsibilities by both parties, and protection in case of disputes. The Annex to ILO Migration for Employment Recommendation, 1949 (No. 86) offers a range of items to be covered in an employment contract – see box 3.12.

Box 3.12. Information to be included in an employment contract – as per Annex to ILO Migration for Employment Recommendation, 1949 (No. 86)
<ul style="list-style-type: none"> <li>• Full name and contact details of the worker (and employer)</li> </ul>
<ul style="list-style-type: none"> <li>• Nature of work and the place where it is performed</li> </ul>
<ul style="list-style-type: none"> <li>• The occupational category</li> </ul>
<ul style="list-style-type: none"> <li>• Remuneration for ordinary hours of work, overtime, night work and holidays and the medium for wage payment</li> </ul>
<ul style="list-style-type: none"> <li>• Bonuses, indemnities and allowances, if any</li> </ul>
<ul style="list-style-type: none"> <li>• Conditions under which and extent to which the employer may be authorized to make any deductions from remuneration</li> </ul>
<ul style="list-style-type: none"> <li>• Conditions regarding food (or housing) if provided by the employer</li> </ul>
<ul style="list-style-type: none"> <li>• The duration of the contract (and start date) as well as the conditions of renewal and denunciation of the contract</li> </ul>
<ul style="list-style-type: none"> <li>• The conditions under which entry and residence in the territory of immigration are permitted</li> </ul>
<ul style="list-style-type: none"> <li>• The method of meeting the expense of the journey of the migrant and the members of his family</li> </ul>
<ul style="list-style-type: none"> <li>• In case of temporary migration, the method of meeting the expenses of return to the home country or the territory of migration as appropriate</li> </ul>
<ul style="list-style-type: none"> <li>• The grounds on which a contract may be prematurely terminated</li> </ul>

In addition, countries of origin of migrant workers such as Guatemala, Mexico and the Philippines require written employment contracts of migrant workers to be validated by labour authorities at source prior to departure. These countries also explicitly prohibit recruitment agencies from disseminating false, non-existent, and inaccurate job offers.

### 3.2.12 Awareness of rights and access to information

Prospective migrant workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment (see ILO GPOG principle 10). Where possible, information on the risks of recruitment related abuse (and fair recruitment alternatives) should reach prospective migrant workers before they engage with possible recruitment agencies.

Awareness raising measures could include (See ILO GPOG operational guideline 11):

- development and maintenance of a government website with information regarding fair recruitment policies, regulation and processes;
- development, distribution and/or online publication of 'how-to' guides on fair recruitment;
- public service announcements on radio and/or television in a language that the worker understand and tailored to the specific needs of women and men migrant workers;
- web seminars or other outreach efforts;
- encouraging outreach to workers by employers' and workers' organizations, compliant labour recruiters and civil society groups;
- collaboration with the most representative employers' and workers' organizations to provide education and training;
- making labour market information publicly available so as to inform decision making by workers, employers and labour recruiters; and
- pre-departure and post arrival orientation tailored to the specific needs of women and men migrant workers.

The POEA in the Philippines offers an example of a comprehensive website<sup>92</sup> with relevant information pertaining to rights and responsibilities, regulations, and processes. The website targets both Filipino migrant workers and licensed recruitment agencies, offers online services, contains vacancies, and, importantly, provides information on the status of licensed recruitment agencies, including sanctions imposed on them and/or awards received.

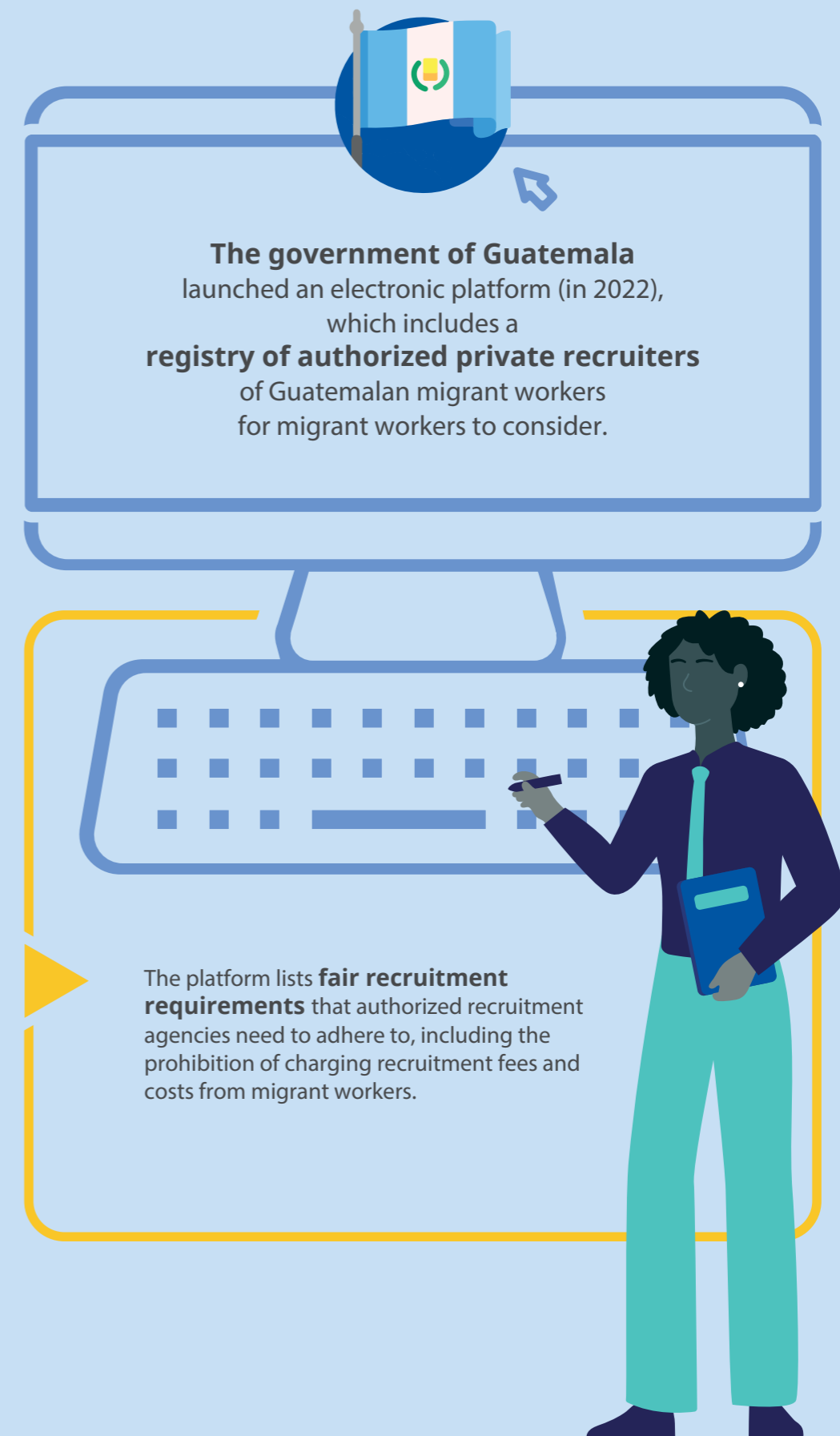
Along similar lines, the government of Guatemala launched an electronic platform (in 2022),<sup>93</sup> which includes a registry of authorized private recruiters of Guatemalan migrant workers for migrant workers to consider. The platform lists fair recruitment requirements that authorized recruitment agencies need to adhere to, including the prohibition of charging recruitment fees and costs from migrant workers.

Many countries have embarked on pre-departure or post arrival orientation programmes to ensure migrant workers are well prepared, and know their rights and obligations, which may contribute to a smooth and satisfactory placement at work. For these orientations to be effective from a fair recruitment perspective, it is crucial that they are offered in a decentralized manner and that prospective migrant workers are reached prior to them deciding on engaging with a recruitment agency (so as to reduce the risk of recruitment abuse). Once decisions on migration have been made, it is crucial that tailor-made information is communicated on the country of destination. See the pre-departure guide for the Viet Nam – Malaysia corridor<sup>94</sup> for an example of topics to cover.

<sup>92</sup> At <https://www.dmw.gov.ph>.

<sup>93</sup> See <https://guatemala.gob.gt/mintrab-lanza-plataforma-electronica-para-el-registro-de-reclutadores/>.

<sup>94</sup> *Pre-departure training curriculum; Viet Nam to Malaysia: Facilitators' manual*, ILO (2014) at [https://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/-sro-bangkok/documents/publication/wcms\\_314221.pdf](https://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/-sro-bangkok/documents/publication/wcms_314221.pdf).



### 3.2.13 Access to justice

The ILO GPOG (in principle 13) state that *workers, irrespective of their presence or legal status in a country, 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*.<sup>95</sup>

The ILO paper entitled 'Fair recruitment and access to justice for migrant workers' (2023)<sup>96</sup> lists a range of options for **government action**. These include:

- Establish within national labour laws equality of treatment between migrant workers and nationals, and between women and men workers in regard to the right to access to justice.
- Ensure timely resolution of migrant worker grievances.
- Amend labour migration laws that undermine migrant workers' ability to obtain remedies.
- Improve information on rights and redress.
- Establish joint and several liability for recruitment-related offences committed by labour recruiters and employers.
- Negotiate bilateral labour agreements that include provisions on dispute settlement and access to justice.
- Facilitate migrant workers' pursuit of their claims, even if they are not physically present in the country.
- Strengthen embassy oversight and systematize consular assistance.
- Improve oversight and accountability of labour recruiters, in line with ILO standards.
- Provide training to enhance capacity of labour officers and reduce discrimination, including gender discrimination.
- Place the burden of proof on alleged perpetrators in discrimination cases and cases related to violence and harassment.
- Improve legal support and interpretation services where necessary, provide access to gender-responsive counselling services, and provide humanitarian support, including for food, housing and transport.

<sup>95</sup> See also UNGP, principles 26, 27 and 28.

<sup>96</sup> See 'Fair recruitment and access to justice for migrant workers', ILO (2023) at [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_protect/@protrav/@migrant/documents/publication/wcms\\_850615.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@migrant/documents/publication/wcms_850615.pdf).

- Expand branch offices of administrative dispute resolution bodies and other essential labour migration services as a matter of priority.
- Facilitate inter-agency, trade union and civil society coordination on migrant worker remedies.
- Develop access to justice indicators and systems to improve data collection and resolution of migrant worker complaints.
- Allocate funding towards improving access to remedies.

In addition, the paper describes eight emerging good practices related to access to justice.<sup>97</sup>

### 3.2.14 Inter-agency coordination and collaboration

The Global Migration Compact considers that migration is a multidimensional reality that cannot be addressed by one government policy sector alone. A 'whole-of-government' approach is needed to ensure horizontal and vertical policy coherence across all sectors and levels of government.

Such an approach could possibly be steered through inter-agency coordination mechanisms, which could be spearheaded by the ministry of labour or other relevant ministries.

The earlier described case studies from the UK (GLAA), and Belgium and the Netherlands<sup>98</sup> offer examples of constructive collaboration among core governmental actors such as labour inspectors, the police, immigration department officials, the judiciary, tax authorities, social workers and local authorities. These examples highlight amongst others the benefits of collaboration for data-mining and better targeted law enforcement towards problem hotspots where abusive recruitment is presumed, and joint inspections based on multiple areas of expertise, along with effective law enforcement.

Another example of collaboration among ministries and departments is the one between labour attaches and labour inspectors where labour attaches may verify the status of employers and their projects abroad, including staffing needs, before job offers are approved – as is the case in the Philippines.

In addition, governments should support social dialogue on fair recruitment with employers' and workers' organizations. The GPOG state in this context that the implementation of the guiding principles and operational guidelines at the national level should occur after consultation between the social partners and the government.

<sup>97</sup> See Chapter 4 in 'Fair recruitment and access to justice for migrant workers', ILO (2023) at [https://www.ilo.org/wcmsp5/groups/public/@ed\\_protect/@protrav/@migrant/documents/publication/wcms\\_850615.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@migrant/documents/publication/wcms_850615.pdf).

<sup>98</sup> See Annexes 3 and 5 of the 'Technical Brief; Labour inspection and monitoring of recruitment of migrant workers', ILO (2022) at [https://www.ilo.org/wcmsp5/groups/public/@ed\\_protect/@protrav/@migrant/documents/publication/wcms\\_854142.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@migrant/documents/publication/wcms_854142.pdf).

### ▶ 3.3 Considerations for actionable interventions by employers' organizations

Employers organizations may contribute to action for fair recruitment and in particular contribute to or drive national conversations on the topic amongst its members, and with other stakeholder groups.

The IOE guide on fair recruitment<sup>99</sup> offers specific guidance on fair recruitment to employers' organizations, who may assist their members in:

- Reviewing and updating existing member recruitment processes.
- Training on fair recruitment principles based on this guide collectively or tailored for in-house delivery.
- Assisting in writing position descriptions and development of interview plans.
- Assisting in writing contracts of employment.
- Familiarizing members on legal requirements and court decisions impacting recruitment practices.
- Reviewing or helping in the creation of employer policies to align with fair recruitment expectations (e.g., human rights policy, non-discrimination policies, etc.).
- Advising on inclusion of fair recruitment requirements in recruitment service contracts.

More generally, employers' organizations may:

- Advocate for the non-payment of fees by workers in their dialogue with government.
- Promote fair recruitment to members and other stakeholders.
- Engage with recruitment agencies to explain fair recruitment practices and starting to move the market to an employer pays model.
- Engage nationally with ILO, IOM and other stakeholders seeking to establish a non-fee charging employment marketplace.
- Identify those agencies that do not charge fees and creating a "bank" of recruiters that members could access. It can be done directly or with the help of members, and it should not infer any warranty as to their actual practices and members would still be required to undertake their own due diligence.
- Apply fair recruitment practices in the organization's own recruitment; engaging with government and in tripartite social dialogue over fair recruitment approaches for migrant labour.

<sup>99</sup> An employer guide for fair recruitment, IOE (2021).

### ▶ 3.4 Considerations for actionable interventions by employers

#### 3.4.1 Legal compliance, human rights due diligence throughout supply chains and codes of conduct

Any enterprise should operate in line with national legislation in the countries where it operates. To ensure enterprises are free from recruitment abuse and possible association with forced labour, they should develop and commit to a policy – or code of conduct on the topic – that all staff (including (training) coaches and staff in human resources departments) and business partners can adhere to when operating (and to be communicated to all relevant stakeholders). Such policies, or approaches should be appropriate to size and circumstance, and may be less encompassing for small and medium sized employers. The UN GP on business and human rights prescribe further that any enterprise should conduct human rights due diligence throughout its supply chain, and this should include efforts to ensure that workers are protected from recruitment abuse and benefit – where appropriate – from remediation.


A large number of enterprises have acted accordingly. Amongst them enterprises involved in the Consumer Goods Forum (CGF), which is a global industry network of over 400 global brands with an estimated 5 million suppliers who together employ millions of workers, which committed to end forced labour and unethical recruitment from its supply chains – see box 3.13.

#### ▶ Box 3.13. Consumer Goods Forum call to action against forced labour and unethical recruitment

In 2018, the CGF adopted a 'Call to Action: Business Leaders Join Forces to Call for the End to Forced Labour and Unethical Recruitment'. In operationalizing the commitment, they are guided by the following priority principles:

- ▶ Every worker should have freedom of movement – i.e. the ability of workers to move freely should not be restricted by their employer through abuse, threats and practices such as retention of passport and valuable possessions;
- ▶ No worker should pay (recruitment fees) for a job – i.e. recruitment and employment should be paid by the employer, not the employee;
- ▶ No worker should be indebted or coerced to work – i.e. workers should work freely, aware of the terms and conditions of their work in advance, and paid regularly as agreed.

Similar commitments to fair recruitment modalities have been made by enterprises involved in the Responsible Business Alliance (which is a coalition of over 200 electronics, retail, auto and toy companies which also issued a due diligence and supply chain monitoring toolkit), and others such as Lumen, Stronger Together, SEDEX, and Diginex.

 The ILO has developed a business checklist for assessing compliance against forced labour. It offers a series of yes/no questions to businesses for self-assessment on the risk of forced labour in their operations to assist them in determining where action needs to be undertaken to address those risks.

Other sector specific initiatives worth mentioning include action by the Palm Growers Association of Guatemala (GREPALMA), who adopted a human rights policy in 2020 to manage risk and promote due diligence in its supply chain - through the *Policy of Respect for Human Rights of GREPALMA and its members*.<sup>100</sup> This policy has been augmented by a *Guide on Human Rights Risk Management in the Palm Oil Agri-business*. Both documents are hinged on human rights principles and international labour standards, and include attention to fair recruitment.

In order to assist enterprises in conducting human rights due diligence, ILO has developed a **business checklist for assessing compliance** against forced labour.<sup>101</sup> This checklist offers a series of yes/no questions to businesses for self-assessment on the risk of forced labour in their operations to assist them in determining where action needs to be undertaken to address those risks. The self-assessment questions are divided into the phases prior to employment, during employment and post employment and amongst others cover recruitment, involvement of recruitment agencies, recruitment cost coverage, provision of loans, employment contracts, payment of wages, treatment of migrant workers, termination of employment, repatriation, and assessment of suppliers.

Along similar lines, the Responsible Labour Initiative (RLI) has developed an assessment programme – entitled the Specialty Validated Assessment Programme (SVAP)<sup>102</sup> – for forced labour due diligence at an employment site or labour provider. It includes attention to corrective action and closure audits. Businesses may also conduct a self-assessment through the Responsible Sourcing Tool.<sup>103</sup> IOM has also developed a due diligence toolkit for enterprises.<sup>104</sup> It includes a risk assessment tool and self-assessment checklist for enterprises, and a tool for interviewing workers. IOM has also created the International Recruitment Integrity System (IRIS),<sup>105</sup> which is a certification system for fair and ethical recruiters aimed at enabling businesses to better identify recruitment intermediaries that meet fair recruitment standards.

<sup>100</sup> See [https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS\\_778835/lang--en/index.htm](https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS_778835/lang--en/index.htm).

<sup>101</sup> See *Annex V – Checklist for assessing compliance in 'Business responsibility on preventing and addressing forced labour in Malaysia'*, ILO (2019), which is based on an earlier guide by VCCI and ILO in Viet Nam, and which has been adapted further for use in an ILO-supported training on forced labour for the business community in Kuwait (2023). Similarly, ILO developed a due diligence toolkit for use in the agriculture sector in Mexico at <https://ahifores.com/courses/caja-de-herramientas-para-implementar-la-contratacion-equitativa-en-el-sector-agricola-en-mexico/> and one for Tunisia entitled *Tunisie: Guide de conformité de l'établissement privé de placement à l'étranger: De la conformité réglementaire à la performance* (2023).

<sup>102</sup> See <https://www.responsiblelabor.org/svap-on-forced-labor/>.

<sup>103</sup> At [www.responsiblesourcingtool.org](http://www.responsiblesourcingtool.org).

<sup>104</sup> *IOM fair and ethical recruitment due diligence toolkit*, IOM (2022) at <https://www.iom.int/fair-and-ethical-recruitment-due-diligence-toolkit>.

<sup>105</sup> At <https://iris.iom.int/fair-labour-recruiters>.

Further guidance on business policies against recruitment abuse may be drawn from the online *'ILO due diligence toolkit for fair recruitment'*<sup>106</sup> and ILO handbook for employers and business on combating forced labour,<sup>107</sup> which offers **ten principles for business leaders to combat forced labour** as follows:

- Have a clear and transparent company policy against forced labour (including forced labour resulting from recruitment abuse).
- Train human resource and compliance officers to identify forced labour in practice, followed by remedies.
- Provide regular information to shareholders and potential investors on prevention of forced labour.
- Promote agreements and codes of conduct in the relevant industrial sector.
- Treat migrant workers fairly and monitor recruitment agencies (and blacklist abusers).
- Ensure that all workers have written contracts in a language they can understand.
- Encourage national and international events among business actors to identify problems and good practice.
- Contribute to programmes to assist victims of forced labour.
- Build bridges with governments, workers, and law enforcement agencies against forced labour.
- Find innovative ways to reward good practices.

### 3.4.2 Monitoring compliance, corrective action, and documentation

Assuming enterprises have policies (or codes of conduct) in place against abusive recruitment and for fair recruitment, and implement them, they need to be monitored for compliance. This can be done through internal audits, and monitoring of the performance of business partners, and should include confidential interviews with workers (following ethical rules and without repercussions on workers). Where abusive practices are observed, corrective action should be taken immediately – including reporting to the authorities, corrective action with business partners within the means of an enterprise (e.g., improved procedures, financial penalties, and as a last resort severing ties with abusive recruiters), and, where necessary, protection to victims of abuse and payment of compensation. Enterprises should keep records of self-assessment, audits, and corrective action and track progress over time. For reasons of credibility, any compliance monitoring procedures should benefit from independent reviews. Enterprises may also issue regular reports publicly – possibly through participation in the Global Reporting Initiative, which includes a standard for reporting requirements on forced labour (i.e. GRI 409).<sup>108</sup>

Under the Verité Coffee Project, involved businesses have been offered guidance on reviewing the performance of their business partners for fair recruitment and employment of workers as part of internal corporate due diligence. The tool on monitoring labour brokers offers a series of warning signs that may indicate possible abuse under six areas and these relate closely to the earlier mentioned ILO forced labour indicators – see box 3.14 for an adapted/shortened version.<sup>109</sup>

<sup>106</sup> At <https://flbusiness.network/toolkit-fair-recruitment/story.html>.

<sup>107</sup> See *'Combating forced labour; A handbook for employers and business'*, ILO (2015).

<sup>108</sup> See <https://www.globalreporting.org/standards/> under GRI 409 forced and compulsory labour 2016.

<sup>109</sup> Drawn and adjusted with a focus on recruitment from *'Guidance on monitoring labour brokers'*, Verité (2022) at [https://verite.org/wp-content/uploads/2022/04/COFFEE-Brazil-Guidance-on-Monitoring-of-Labor-Brokers\\_General.pdf](https://verite.org/wp-content/uploads/2022/04/COFFEE-Brazil-Guidance-on-Monitoring-of-Labor-Brokers_General.pdf).

**Box 3.14. Verité Coffee Project: Warning signs that may indicate possible abuse in recruitment and employment**

Recruitment fees

- Lack of labour broker knowledge of national legal requirements and code of conduct requirements related to recruitment fees.
- No written commitment by the labour recruiter to adhere to the “employer-pays” policy.
- Lack of an effective and safe procedure for workers to report ethical violations by internal staff or subcontractors of the employer-pays policy (e.g., workers are coached to lie about fees and expenses).
- Jobseekers are charged up-front fees for recruitment-related expenses.
- Workers report unexplained deductions from their pay or deductions directly related to recruitment fees.
- Workers are charged fees for recruiter-owned or -operated accommodations.
- No clear procedures for conducting pre-departure and arrival orientation of new hires.
- Information provided to workers prior to departure is not consistent with employment contracts, actual conditions of work, applicable legal requirements, and/or company policies and procedures.

Contracts and orientation

- Contracts are not in a language worker understands.
- In contexts where workers have low levels of literacy, the terms of written contracts are not thoroughly and accurately explained.
- There are inconsistencies between contracts provided by workers and recruiters.
- Terms of contracts violate national law or company policy or fail to include all required information.
- Orientations are conducted by labour brokers, which may result in inconsistent messaging and insufficient information.
- Trainings are conducted in a language workers do not fully understand.
- Labour recruiters charge training fees to workers.

**Box 3.14. (cont.)**

Payment and benefits

- Underpayment of wages (lower than legal minimum wage, terms agreed to during recruitment, and/or wages owed to workers according to their hours worked or production).
- Recurring errors in the calculation of workers’ earnings, related to days or hours worked, piece rate production, and/or deductions.
- Delayed payment of wages (less frequent than required by law or agreed to with workers).
- Evidence of forced savings programmes.
- Evidence of illegal deductions.
- Workers are uninformed or misinformed about wage rates and deductions.
- No pay slips are provided or pay slips do not contain critical information about how wages are calculated, such as rate of pay per unit, hours worked, production, and/or deductions.
- Pay slips are not provided in a language workers understand.
- Workers’ pay slips do not correspond to workers’ calculations of their earnings or records provided by the employer or recruiter.
- Workers have not signed to acknowledge receipt of earnings.

Loans, deposits, and deductions

- Workers are induced or encouraged to take loans or advances from the recruiter at excessive interest rates or unreasonable terms of payment.
- Workers incur debts to labour brokers for food and lodging expenses.
- Workers incur debts by purchasing goods from labour brokers.
- Workers are required to lodge deposits before taking up employment and during employment.
- Workers (or their families) are provided with cash advances and in-kind supplies, the value of which is deducted from their pay at high interest.
- Workers (or their families) end their employment on the farm with greater debt than when it began.
- Workers are ill-informed about the terms or the full amount of loans or deductions.
- Deductions for loan payments are made against workers’ salary.
- Workers do not have access to work earnings or bank accounts used to receive payment.
- Workers do not give informed consent for any savings programme.
- Workers are not paid until the end of the harvest season or the end of their employment.
- Workers lose their earnings if they leave before the end of the harvest season.

**Box 3.14. (cont.)**

Housing

- Recruiters require workers to stay in recruiter-controlled housing facilities or workers have no other alternatives.
- There are restrictions on workers' freedom of movement, such as curfews or prohibitions against leaving worker housing without permission.
- Gates to worker housing are locked.
- Security personnel are instructed to restrict workers from leaving or entering the housing.
- There is a lack of lockers for workers to store their documents and valuables.
- Insufficient distance between agrochemical application and accommodation.
- Accommodations are visibly decrepit, poorly maintained, dangerous, or unsanitary.
- Workers report unsafe, unsanitary, or dangerous conditions.
- Workers cannot get adequate sleep to safely perform their jobs due to poor conditions.
- Costs of provided housing are outside of prevailing market rates for similar accommodation.
- Workers have no other option than to purchase food from recruiters (they lack access to kitchens and/or free transport to purchase food at market rates at stores outside of the farm).
- Workers are provided with inadequate food and/or food of low nutritional content.
- Workers are charged above market prices for food.
- Costs of recruiter-provided food or housing contribute to worker debt.

Personal documents

- Workers are required to surrender their documents to the recruiter or employer.
- Passports are taken from workers for "safekeeping".
- Workers working books are taken to register their employment and are not returned.
- Workers are misinformed about their right to secure their own documents.
- Workers are not provided a means to secure their own documents.
- Workers do not have any access to personal documents.
- Workers report that their ability to move freely or terminate their employment has been limited by their inability to access their documents in a timely fashion.

In addition, the project developed a tool to interview coffee sector workers<sup>110</sup> about their recruitment-related experiences, under the assumption that proactively interviewing workers on a regular basis can help coffee farms to prevent and address recruitment and employment related abuse. It includes attention to a series of warning signs under 11 evaluation areas (i.e. recruitment and hiring; recruitment fees; contracts; document retention; freedom of movement; freedom to terminate employment; wages and deductions; working hours and forced overtime; discipline; harassment and abuse; and living conditions).

<sup>110</sup> Worker interview guide focused on recruitment and hiring, Verité (2022) at [https://www.dol.gov/sites/dolgov/files/ILAB/INTERVIEW\\_GUIDE-ENGLISH-COFFEE-Brazil-Worker-Interview-Questionnaire-Focused-on-Recruitment\\_General.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/INTERVIEW_GUIDE-ENGLISH-COFFEE-Brazil-Worker-Interview-Questionnaire-Focused-on-Recruitment_General.pdf).

### 3.4.3 Grievance procedures and access to remedy

The ILO GPOG state (under operational guideline 27) that employers should provide (migrant) workers with effective access to grievance and other dispute resolution mechanisms, and to appropriate remedies.<sup>111</sup>

Company grievance procedures<sup>112</sup> should:

- be developed in written form;
- commit to treating all grievances seriously and to conduct proper investigations;
- state the company's commitment to resolve any grievance in a fair and confidential manner;
- guarantee protection to complainant and victims against harassment or retaliation;
- ensure that different needs of women and men are addressed;
- include trained personnel to handle complaints, including on how to interview and address needs of women migrant workers;
- define clear and accessible steps to lodge complaint;
- define a timeframe for investigation and resolution; and
- offer an avenue to raise grievance to higher management.

In line with the UN guiding principles on business and human rights (UNGP), business enterprises are required to ensure that victims of business-related human rights abuses have access to effective grievance mechanisms and that adverse impact is remediated, including through apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of further harm through, for example, injunctions or guarantees of non-repetition.<sup>113</sup> The UNGP list a number of criteria for effective (non-judicial) grievance mechanisms. They need to be:

- legitimate (in that they are fair and trustworthy);
- accessible (to all they are designed for);
- predictable (in terms of process, time and available outcomes and without fear for repercussions);
- equitable (Fair and even access to information, advice and expertise);
- transparent (about the process and progress of grievances);
- rights-compatible (with internationally recognized human rights);
- a source of continuous learning (for businesses); and
- based on engagement and dialogue (with the groups they are meant for).

<sup>111</sup> See also UNGP articles 29 and 30.

<sup>112</sup> For a more elaborated version, see p. 65 in 'Business responsibility on preventing and addressing forced labour in Malaysia', ILO (2019).

<sup>113</sup> See UNGP, principles 25, 29 and 30.



### 3.4.4 Reimbursement of recruitment fees and related costs to workers

In order to settle the payment of compensation to workers who have been subjected to recruitment fees and related costs, Impactt Limited, an employee-owned consultancy, provides a methodical approach to assist businesses – see box 3.15.<sup>114</sup>

#### ▶ 3.15. Impactt Limited: Reimbursement of recruitment fees and related costs to workers

Impactt Limited, an award-winning employee-owned consultancy firm that specialises in ethical trade and human rights, provides assistance to businesses to carry out reimbursement payments to workers who have been subjected to unethical recruitment fees.

It does so based on a set of Principles and Guidelines for Repayment of Recruitment Fees and Related Costs in line with the ILO GPOG and definition of recruitment fees and related costs, and offers a common list of cost items. By remediating recruitment fees and related costs, workers are liberated from debt bondage, effectively eliminating a significant forced labour concern from company value chains. While their scope is limited to repayment of recruitment fees and related costs only (and not to any other forced labour related abuses), it addresses a crucial issue faced by many companies and is seen as offering a catalyst for increased commitment by businesses to fair recruitment.

These Principles and Guidelines have been largely mirrored by the 'Human Rights Coalition – Working to End Forced Labour (HRC)'. This coalition, which is an initiative by CEOs under the Consumer Goods Forum (CGF) in partnership with AIM-Progress, launched its 'Guidance on the Repayment of Worker-paid Recruitment Fees and Related Costs'.<sup>115</sup>

### ▶ 3.5 Considerations for actionable interventions by private employment and recruitment agencies

Private employment and recruitment agencies may also play a vital role in operationalizing fair recruitment, through codes of conduct, human rights due diligence, performance monitoring and access to justice and remedy in case of abuse, including payment of compensation to migrant workers where necessary.<sup>116</sup>

<sup>114</sup> See <https://impacttlimited.com/principles-for-repayment-of-recruitment-fees/>.

<sup>115</sup> See <https://www.theconsumergoodsforum.com/wp-content/uploads/2022/10/2022-HRC-Guidelines-on-Repayment-of-Recruitment-Fees.pdf>.

<sup>116</sup> As private employment and recruitment agencies are a type of enterprises – along with employers as providers of jobs to workers – the listed measures are very similar to those listed under 'employers', and therefore not repeated here.

The World Employment Confederation (WEC) is the voice and advocate of the employment services industry at the global level and is comprised of staffing, recruiting, and workforce solutions federations in 50 countries, as well as seven of the largest international recruitment agencies. It has developed a Code of Conduct on fair and ethical recruitment to which its members are committed – see box 3.16.<sup>117</sup>

#### ▶ Box 3.16. World Employment Confederation: Code of Conduct on fair and ethical recruitment

##### Member agencies are committed to respect for...

**Law** – Comply with all relevant legislation including prohibition of FL and human trafficking.

**Ethical and professional conduct** in dealing with jobseekers, workers and user-companies.

**Free-of-charge provision of services** to jobseekers – no (in)direct charges.

**Transparency** of terms of engagement – employment contract with details on nature of work, rates of pay, pay arrangements, working hours - in a language they understand, and based on agreement without coercion.

**Health and safety** – ensure placement in a safe and healthy working environment.

**Non discrimination** – treat jobseekers and workers without discrimination (on the basis of race, colour, sex, religion, political opinion, national extraction, social origin or any other form of unethical discrimination).

**Workers rights** including freedom of association, freedom from monetary deposit or other collateral as a condition of employment, freedom from debt bondage.

**Confidentiality** in all dealings.

**Quality of service** (through trained staff) and fair competition (without undercutting the market).

**Access to remedy** – and credible grievance mechanisms to be ensured for all workers, without fear of reprimand or discrimination.

<sup>117</sup> At <https://wecglobal.org/world-employment-confederation-global/code-of-conduct-2/#:~:text=The%20Code%20of%20Conduct%20of,Rights%20and%20Corporate%20Social%20Responsibility>.

Associations of recruitment agencies in a range of countries of origin of migrant workers have developed similar codes with attention to fair recruitment, such as those by the Ethiopian Overseas Employment Agencies Federation (EOEAF), the Ugandan Association of External Recruitment Agencies (UAERA) and the Association of Hong Kong Manpower Agencies (AHKMA). The code by EOEAF is aligned with the Ethiopian Overseas Employment (Amendment) Proclamation No. 1246 (2021), while the UAERA monitors the situation of Ugandan migrant workers abroad by organising visits to countries of destination. AHKMA and the Society of HK-Accredited Recruiters of the Philippines (SHARP) signed a first-ever code of conduct on fair recruitment of domestic workers in the Philippines to Hong Kong (China) corridor.

In the Americas, the recruitment agency CIERTO has aligned its services to fair recruitment principles and offers an interesting example of independent, 3<sup>rd</sup> party monitoring of its fair recruitment credentials – see box 3.17.<sup>118</sup>

► **Box 3.17. CIERTO: Ethical recruitment with independent 3rd party monitoring**

CIERTO is an ethical recruitment agency with operations in Guatemala, Mexico and the USA. Its recruitment policy is aligned with the ILO 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. They publish only vetted vacancies with the full details of working conditions, 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. The quality of the work of the recruitment agency is monitored through an independent third-party - in communities of origin (mostly so that no recruitment fees are charged) and destination, and through a worker's survey upon return to document any potential abuse either by the recruiter (CIERTO) or by the employer. The agency recruits mostly indigenous workers and its recruitment practices are sensitive to ethnic, linguistic and gender diversity. The CIERTO approach has generated demand from foreign employers for fairly recruited workers, and has resulted in requests for visa renewals through the agency by US authorities.

The WEC compendium of voluntary initiatives<sup>119</sup> provides further examples of initiatives for fair and ethical recruitment, covering examples of codes of conduct, training and staff certification schemes, membership accreditation systems, education of user companies, anti-discrimination and diversity pledges, bipartite agreements and social funds, due diligence, and grievance mechanisms.

<sup>118</sup> For more, see [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/publication/wcms\\_778832.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_778832.pdf).

<sup>119</sup> *Compendium of voluntary initiatives promoting ethical recruitment practices by national federations of the World Employment Confederation*, World Employment Confederation (2019), may be accessed at [https://wecglobal.org/uploads/2019/07/WEC\\_Compndium-Practices-Ethical-Recruitment.pdf](https://wecglobal.org/uploads/2019/07/WEC_Compndium-Practices-Ethical-Recruitment.pdf).

## ► 3.6 Considerations for actionable interventions by trade unions

Trade unions may play a critical role towards fair recruitment of workers including migrant workers. The ILO guide on trade union action to promote fair recruitment of migrant workers<sup>120</sup> highlights that:

- trade unions are in the business of protecting all workers, not just their members;
- protecting the rights of migrant workers is the best way to protect the rights of national workers; and
- existing trade unions can revitalize their membership by organizing migrants because these workers are also potential members.

The guide states further that trade unions can play a critical role in particular in the following areas:

- **promoting fair recruitment and social dialogue, and influencing policy dialogue** (i.e. when developing unified standard contracts (such as the one developed for migrant garment workers in Jordan); in contributing to Bilateral Labour Agreements (such as the Philippines-Germany nurse hiring agreement); by contributing to policy reform (such as the involvement of the British Trade Union Congress in the development of the Gangmasters Licensing Act); engagement with the ILO's International labour standards supervisory mechanism through documentation of recruitment issues and submission of comments to the Committee of Experts on the Application of Conventions and Recommendations; contributions to bipartite social dialogue (such as the ASEAN Trade Union Council (ATUC) and the ASEAN Confederation of Employer (ACE) who have held regular dialogue sessions on labour migration issues since 2016).
- **monitoring recruitment practices** – In collaborating with and/or complementing the work performed by national labour inspectorates and enterprises, trade unions may play a role in (a) detecting if fair recruitment principles are respected by recruiters and employers, and, if not, denouncing observed abuse; (b) checking if complaint and dispute resolution mechanisms are available, accessible and function properly and effectively; and (c) facilitating workers' access to these mechanisms and supporting them in labour disputes.
- **delivering services to workers** (i.e. Support migrant workers to file complaints and protect them from reprisals, legal representation, facilitation of workers' networks, provision of access to and dissemination of free, comprehensive and accurate information on recruitment – such as recruitment advisor (see box 3.18)<sup>121</sup> and referral to relevant services.

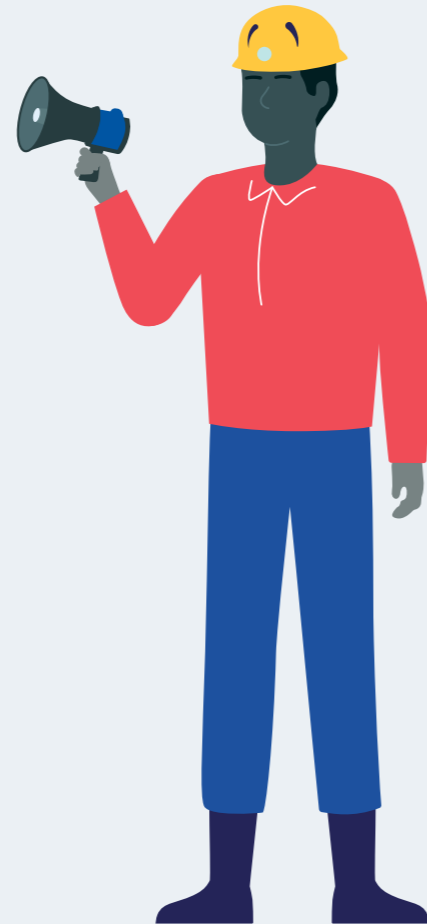
<sup>120</sup> The ILO-guide entitled *'Trade union action to promote fair recruitment for migrant workers'* (2020) is available at [https://www.ilo.org/wcmsp5/groups/public/-ed\\_protect/-protrav/-migrant/documents/briefingnote/wcms\\_740198.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/briefingnote/wcms_740198.pdf).

<sup>121</sup> For more, see <https://www.recruitmentadvisor.org>.

► **Box 3.18. Recruitment advisor**

With the view to facilitate access to reliable, user-generated information about recruitment agencies, a web-based review platform of labour recruiters (Recruitment Advisor) has been developed by the International Trade Union Confederation. The platform – at <https://www.recruitmentadvisor.org> – pools and shares migrant workers' knowledge of their recruitment experience to the benefit of the global migrant community, by allowing migrant workers to provide an assessment of their labour recruiter so prospective migrant workers can make informed decisions on the recruitment agency they want to engage with. The platform offers information about recruitment agencies that place workers in 20+ countries across the world, and in a range of languages including English, Sinhala, Swahili, Tamil, Hindi, Filipino, Indonesian and Bengali. The platform is run by coordination teams, as currently present in 13 countries. The ultimate objective behind this website is to create a global repository of information on the various labour recruiters in any given country. In addition, the website could become an efficient tool to share information with migrant workers about their rights and responsibilities in the countries of destination, as well as share key information on other services provided by local trade unions to migrant communities.

The initiative is complemented by a complaints mechanism based on the Hamsa reporting system as developed by Migrant Forum in Asia. For more on this see box 3.19.



## ► 3.7 Considerations for actionable interventions by non-governmental organizations

Even though non-governmental organizations (NGOs) are not membership organizations, they have much in common with trade unions. Both tend to have strong capacity to reach out to migrant workers. NGOs may deliver information and/or legal assistance services pertaining to fair recruitment to migrant workers and are well placed to learn from migrant workers on their recruitment experience, and advocate for remedial action and policy change against abusive recruitment – as illustrated in the example in box 3.19.

► **Box 3.19. Migrants Rights Violation Reporting System by Migrant Forum in Asia**

Migrant Forum in Asia (MFA) has developed a case documentation system entitled Migrants Rights Violation Reporting System (MRVRS), also known as Hamsa. The online application records, stores, and manages information about human rights and labour rights violations, including recruitment abuse, against migrant workers and members of their families, and facilitates the generation of statistics and consolidated reports that can be used for advocacy.

MFA is widely recognized for the quality of its insights pertaining to migrant workers and contributes to policy dialogue in both countries (and regions) of origin and destination of migrant workers.

### 3.7.1 Providing information and advise through Migrant Resource Centres

Given their similarities, NGOs and trade unions are well placed to collaborate. For outreach to migrant workers, NGOs, trade unions, international organizations and job centres have joined hands in countries across the world<sup>122</sup> by setting up and running Migrant Resource Centres (MRCs). These MRCs serve as physical spaces where migrants and potential migrants may obtain accurate information and counselling on safe migration and rights at work, training, and legal assistance including support in lodging complaints against recruitment agents and employers. The MRC operations manual issued by the ILO Triangle project<sup>123</sup> offers guidance for establishing and operating a MRC. Finally, the recently published ILO Guidance Note on Migrant Worker Resource Centres (MRCs) explicitly refers to the fact that MRCs provide "Access to accurate information and support services are a critical measure to ensure fair recruitment and decent work and to facilitate access to justice mechanisms for migrant workers throughout all stages of the migration cycle."<sup>124</sup>

<sup>122</sup> While initiated in Asia, MRCs are spreading across the globe. For instance, in 2022, a MRC was opened in Tijuana, Baja California (Mexico) and is managed by the National Union of Farm Workers (see [https://www.ilo.org/mexico/noticias/WCMS\\_848033/lang-en/index.htm](https://www.ilo.org/mexico/noticias/WCMS_848033/lang-en/index.htm)).

<sup>123</sup> See [https://www.ilo.org/asia/publications/WCMS\\_312450/lang-en/index.htm](https://www.ilo.org/asia/publications/WCMS_312450/lang-en/index.htm).

<sup>124</sup> See [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_907976/lang-en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_907976/lang-en/index.htm)

## For outreach to migrant workers

NGOs + Trade unions + International organizations + Job centres

have joined hands in countries across the world by setting up and running

### Migrant Resource Centres (MRCs)



These **MRCs** serve as physical spaces where migrants and potential migrants may obtain accurate information and counselling on:

- ✓ migration and rights at work;
- ✓ training; and
- ✓ legal assistance.

Including support in lodging complaints against recruitment agents and employers.

The **MRC operations manual** issued by the ILO Triangle project offers guidance for establishing and operating a MRC.

## ▶ 3.8 Considerations for actionable interventions by the media

In many countries political discourse has tended to reinforce negative attitudes to migration, and link migrant to the decline of labour market conditions, unemployment rates and decreasing living standards, despite empirical assessments of the real economic benefits of migration.<sup>125</sup>

In this framework, the media play an important role in shaping public opinion and may offer a voice to migrant workers and employers for fair recruitment and against recruitment abuse, through coverage of abusive recruitment practices and ways forward to address these. Media may play a prominent role in:

- Preventing deception in the recruitment process through transparent, documented and ethical journalism, as prospective migrants might take decision based on lack of accurate information.
- Sharing positive messages on migrant workers experiences, as biased media reporting can lead to discrimination, xenophobia and unfair treatment.
- Shaping the debates around fair migration helps to combat the toxicity of debate on these issues in both countries of origin and destination.

The ILO toolkit for journalists entitled *Reporting on forced labour and fair recruitment*<sup>126</sup> offers journalists information to understand recruitment abuse and tips to find and write their story. It includes practical examples of quality reporting, testimonies, infographics, videos, ethical guidelines and a glossary of key terms and has been adapted to numerous national contexts.

## ▶ 3.9 Considerations for actionable interventions by educational institutions

Institutions involved in education and training may also contribute to fair recruitment. For instance, university courses for business leaders, human resource managers, lawyers, and public administrators could include attention to fair recruitment and may thus influence future policy making and decisions for fair recruitment. Along these lines, an MOU was signed in 2022<sup>127</sup> between ILO, the Global Business School Network (GBSN) and the Geneva School of Economics and Management (GSEM) to pool academic, policy-oriented and practical expertise on key labour issues including labour migration and fair recruitment.

The Institute for Human Rights and Business also offers thematic courses to businesses. In addition, it spearheaded a range of relevant initiatives including the *Dhaka Principles for Migration with Dignity*, a Corporate Human Rights Benchmark (CHRB), a responsible recruitment gateway, and a leadership group for responsible recruitment.

<sup>125</sup> ILO Fair Migration Agenda.

<sup>126</sup> See 'Reporting on forced labour and fair recruitment; An ILO toolkit for journalists' (ILO), 2020 at <https://readymag.com/ITCILO/1292461/>.

<sup>127</sup> See [https://www.ilo.org/global/topics/sdg-2030/goal-8/target-8-7/accelerator-lab/projects/mpfund/WCMS\\_863231/lang--en/index.htm](https://www.ilo.org/global/topics/sdg-2030/goal-8/target-8-7/accelerator-lab/projects/mpfund/WCMS_863231/lang--en/index.htm).

In the Americas, the UNAM,<sup>128</sup> Extraordinary Chair on Human Trafficking, under the auspices of the Regional Conference on Migration, offers an online Diploma course on human trafficking and forced labour and which includes attention to fair recruitment.

In addition to offering courses, educational institutions may also conduct research and assessments on fair recruitment. At the global level, Maastricht University has undertaken a global assessment (in 2024) of progress made towards fair recruitment in the last five years with a particular focus on legal changes pertaining to defining recruitment fees and related costs.<sup>129</sup>

Staff of educational institutions may furthermore be involved as key informants in efforts to develop situation analyses, improve targeting or develop and/or monitor national action plans against abusive recruitment.

In considering action against abusive recruitment, national stakeholders may also benefit from the ILO self-learning course on establishing fair recruitment processes.<sup>130</sup> It is composed of six modules, which tackle specific – yet interrelated – topics pertaining to fair recruitment, including course material for government officials, labour inspectors, and enterprises.

### ► 3.10 Multi-stakeholder initiatives for fair recruitment

In addition to actions by specific groups of stakeholders, these separate groups may also collaborate in joint initiatives for fair recruitment. The GCM promotes such partnerships and refers to whole-of-society approach that may involve migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media and other relevant stakeholders.

Multi-stakeholder initiatives could be sector specific, or cover a particular supply chain.

The following, mostly business- or civil society-led, multi-stakeholder initiatives may offer relevant resources: Consumer Goods forum; Sedex Stakeholder Forum (SSF); Responsible Business Alliance; Ethical Trading Initiative (ETI); Verité Fair Hiring Toolkit; Leadership Group for Responsible Recruitment; ILO Global Business Network on Forced Labour (see Annex C for relevant website addresses).

The 'ultimate', national multi-stakeholder initiative would be the development and implementation of a national roadmap for fair recruitment by a diverse range of relevant stakeholders.

<sup>128</sup> UNAM is the Universidad Nacional Autónoma de México. For more on the course, see <http://trata.planeacion.unam.mx>.

<sup>129</sup> Report forthcoming.

<sup>130</sup> The ILO self-learning course on *establishing fair recruitment processes* can be accessed at [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_682737/lang-en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_682737/lang-en/index.htm) and is also used by the ILO-ITC.

## ► Epilogue

The considerations for actionable interventions along with examples and illustrations as provided in Part 3 hold promise individually. Joined together in an action plan, with conceptual clarity (as described in Part 1) and based on sound process (as described in Part 2) – and adjusted for local conditions and opportunities – these actionable interventions may make a substantial difference against abusive recruitment in favour of fair recruitment. It is hoped that over time, the body of evidence of what works to achieve fair recruitment will grow, and lead to updates of this Roadmap with additional, country specific promising practices, and trigger other countries to coordinated national action against abusive recruitment.



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## ► Annexes

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### A. List of relevant ILO international labour standards policy documents

ILO Declaration on the Fundamental Principles and Rights at Work (1998)  
ILO Forced Labour Convention, 1930 (No. 29)  
ILO Labour Inspection Convention, 1947 (No. 81)  
ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)  
ILO Employment Services Convention, 1948 (No. 88)  
ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94)  
ILO Migration for Employment Convention (Revised), 1949 (No. 97)  
ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98)  
ILO Equal Remuneration Convention, 1951 (No. 100)  
ILO Abolition of Forced Labour Convention, 1957 (No. 105)  
ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)  
ILO Employment Policy Convention, 1964 (No. 122)  
ILO Migrant Workers Supplementary Convention, 1975 (No. 143)  
ILO Private Employment Agencies Convention, 1997 (No. 181)  
ILO Domestic Workers Convention, 2011 (No. 189)  
ILO Forced Labour Protocol, 2014 (P029)  
ILO Migration for Employment Recommendation, 1949 (No. 86)  
ILO Migrant Workers Recommendation, 1975 (No. 151)  
ILO Private Employment Agencies Convention, 1997 (No. 188)  
ILO Domestic Workers Recommendation, 2011 (No. 201)  
ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)  
ILO Guiding Principles and Operational Guidelines for Fair recruitment (2016) and definition of recruitment fees and related costs (2018)  
ILO Tripartite Declaration of Principles of Multinational Enterprises and Social Policy (MNE Declaration), 1977.

### B. List of relevant international Conventions and policy documents

Universal Declaration on Human Rights (1948)  
International Convention on the protection of the rights of all migrant workers and members of their families (1990)  
International Covenant on Civil and Political Rights (ICCPR) (1966)  
International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)  
United Nations Guiding Principles on Business and Human Rights (UNGPs) (2011)  
UN Global Compact <https://unglobalcompact.org>  
OECD Guidelines for Multinational Enterprises <https://mneguidelines.oecd.org/mneguidelines/>

## C. List of relevant international, business and civil society initiatives

### By ILO:

ILO Accelerator Lab 8.7 <https://www.ilo.org/global/topics/sdg-2030/goal-8/target-8-7/accelerator-lab/lang-en/index.htm>

ILO Fair Recruitment Initiative (FRI) <https://www.ilo.org/global/topics/fair-recruitment/fri/lang-en/index.htm>

ILO Global Business Network on Forced Labour <https://flbusiness.network/>

ILO self-learning course on *establishing fair recruitment processes* <https://www.itcilo.org/courses/establishing-fair-recruitment-processes-0>

### By organizations other than ILO:

Consumer Goods Forum <https://www.theconsumergoodsforum.com/.../key-projects/forced-labour>

Dhaka Principles for Migration with Dignity <https://dhakaprinciples.org>

Ethical Trading Initiative (ETI)'s Base Code <https://www.ethicaltrade.org/eti-base-code>

Impactt Limited at <https://impacttlimited.com/principles-for-repayment-of-recruitment-fees/>

Global Reporting Initiative (GRI) - GRI 409: Forced or Compulsory Labour <https://www.globalreporting.org/pdf.ashx?id=12633&page=7>

IOM International Recruitment Integrity System (IRIS) <https://iris.iom.int>

Leadership Group for Responsible Recruitment <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

Responsible Business Alliance [www.responsiblebusiness.org/initiatives/trafficked-and-forced-labor/](http://www.responsiblebusiness.org/initiatives/trafficked-and-forced-labor/)

Responsible Recruitment Gateway at [www.employerpays.org](http://www.employerpays.org)

Sedex Stakeholder Forum (SSF) - Guidance on Operational Practice & Indicators of Forced Labour <https://www.sedex.com/app/uploads/2022/12/Sedex-Forced-Labour-Indicator-Guidance-final.pdf>

Specialty Validated Assessment Programme (SVAP) <https://www.responsiblelabor.org/svap-on-forced-labor/>

UN Global Compact Human Rights and Business Dilemmas Forum [https://hrbdf.org/themes/dilemmas/forced\\_labour](https://hrbdf.org/themes/dilemmas/forced_labour)

Verité Fair Hiring Toolkit <https://verite.org/help-wanted/fair-hiring-toolkit/>





International  
Labour  
Organization

Integrated Programme  
**FAIR**  
in Fair Recruitment

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