



► Trade union action to promote fair recruitment for migrant workers

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► Introduction

In the context of a globalized economy, workers are increasingly looking for job opportunities beyond their home country in search of decent work and better livelihoods. In addition, millions of workers also move internally. Often this movement is facilitated by public employment services or private recruitment agencies. The means by which workers are recruited into their jobs is a critical determinant of whether they enjoy decent work, especially in migration contexts where workers heavily rely on intermediaries due to lack of knowledge and information. For this reason, while recognizing the need to promote fair recruitment for all, within and across national borders, this brief is mostly focused on the international migration context.

As recognized within the [2030 Agenda for Sustainable Development](#), migrant workers have the potential to greatly impact the social and economic development of their countries of origin, transit and destination. In destination countries, migrants can fill labour shortages, promote entrepreneurship, contribute to social security and welfare schemes, and help meet specific demand for skills (for example in emerging high technology industries). In migrants' countries of origin, positive contributions are reflected in high remittance flows, and transfer of investments, technology and critical skills through return migration and transnational community links.

At the same time, evidence shows that migrant workers face some of the most serious decent work deficits and that their exposure to exploitation and abuse very often takes place at the recruitment stage, or is a consequence of how recruitment is organized, regulated and monitored. A major cause of the poor governance of labour migration and protection gaps is the high cost of migration resulting from recruitment

malpractices, collusion between recruiters in origin and destination countries, complicated bureaucracy and poor regulation. These challenges can translate into workers experiencing exploitation, discrimination and inequalities at the workplace, as well as skills underutilization and job-skill mismatches. Fair and effective labour recruitment policies are required to address these challenges, protect workers, especially migrant workers, and ensure labour market efficiency.

It is within this context that the ILO launched the [Fair Recruitment Initiative](#). While there is no international definition of the term "fair recruitment", but it can generally be understood to mean recruitment carried out within the law, in line with international labour standards, and with respect for human rights, without discrimination and protecting workers from abusive situations. The Fair Recruitment Initiative aims to prevent human trafficking and forced labour; protect the rights of workers, including migrant workers, from abusive and fraudulent practices during the recruitment process; and reduce the cost of labour migration and enhance development outcomes. Furthermore, in 2016 the ILO adopted general principles and operational guidelines for fair recruitment and in 2018, a definition of recruitment fees and related costs (ILO principles and guidelines, and definition).

Globally there are approximately 258 million international migrants and 740 million internal migrants. Among international migrants, 164 million are migrant workers and 48.4 per cent are women migrants (ILO and UNDESA 2017).

Objectives of this brief

This brief aims to encourage and strengthen trade union action to promote and protect workers' rights through policy advocacy, service provision and outreach to workers. The ILO principles and guidelines for fair recruitment encourage trade unions to take the following actions:

- Provide more and better services to their members who might have encountered challenges during their recruitment processes.
- Better promote fair recruitment nationally as well as across international borders.
- Influence and strengthen regulatory, monitoring and enforcement mechanisms to address abusive and fraudulent recruitment practices.
- Support the application and implementation of international labour standards and human rights instruments by actively participating in formulating legislation and policies at all levels (e.g. sectorial, industry, national, regional, international).

► Fair recruitment challenges

Across the world, concerns have been raised about the increasing role of unscrupulous employment agencies, informal labour intermediaries and other operators that act outside the legal and regulatory framework, and often target low-skilled job seekers. The recruitment process – defined as encompassing the advertising, information dissemination, pre-selection and selection, placement into employment and return to the country of origin where applicable – can be undertaken through a number of modalities. These include direct hiring and recruitment through public employment services and private employment agencies acting as third parties. For many workers, recruitment takes place through a complex network of private employment agencies and brokers both within and across international borders.

Against this background, many abuses have been reported during the recruitment and placement process, including deception about the nature and conditions of work; retention of passports; illegal wage deductions; debt bondage linked to repayment of recruitment fees; threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country; and in some instances physical and sexual violence. Unfair recruitment practices often begin in the home country where, the job seekers and potential migrant workers borrow money to pay recruiters. A combination of these abuses can amount to human trafficking and forced labour.

While recruitment abuses affect all workers, those who are recruited across international borders can face specific challenges. Migrant workers, especially if they are in irregular situation, might find themselves more

exposed to fraudulent and unscrupulous labour and human rights violations and are at higher risk of being victims of forced labour than other workers. Women migrant workers, overrepresented in some sectors such as the domestic work, are particularly vulnerable to abuses, notably due to the fact that national labour laws frequently exclude this sector from coverage.

Besides the above-mentioned issues, workers' interests have been poorly reflected in the recruitment legislation of a large number of countries around the world because trade unions are often side-lined from policy discussions related to the regulation and monitoring of recruitment process. Workers face many significant challenges such as:

- limited access to information on safe recruitment channels and employment procedures;
- lack of protection and weak access to justice for victims of abusive and fraudulent practices;
- limited access and awareness on their rights;
- limited or no right to freedom of association and collective bargaining; and
- lack of confidence in institutions.

Accordingly, trade unions have an instrumental role to play in several areas in order to promote fair practices during the recruitment stage and foster a positive migration experience. The ILO principles and guidelines and definition provide guidance to national stakeholders in developing and implementing improved recruitment law, policies and practices to better protect migrant workers.

► ILO General Principles and Operational Guidelines for Fair Recruitment

The promotion and protection of workers', including migrant workers', rights at the recruitment stage has been on the ILO agenda since its establishment in 1919. Since then, constituents have adopted a number of standards to ensure that workers are protected in recruitment and placement and ensure that labour market function is enhanced.¹ These include important provisions for the regulation of public employment services and private recruitment agencies, as well as the general prohibition of recruitment fee charging to workers. In addition to the international labour standards, the ILO has also developed a series of guidance documents in this area, among which are the [General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs](#) adopted at Tripartite Meetings of Experts held in 2016 and 2018, with the aim of providing constituents with practical guidance.

The principles and guidelines and definition for fair recruitment are currently being disseminated through capacity building and technical assistance, as part of the ILO Fair Recruitment Initiative. The principles and guidelines are grounded in international labour standards and relevant ILO instruments. The principles

and guidelines are intended to cover the recruitment of all workers, including migrant workers, whether recruited directly by employers or through intermediaries. They apply to recruitment within or across national borders, as well as to recruitment through temporary work agencies, and cover all sectors of the economy. Implementation of the principles and guidelines at the national level should occur after consultation between the social partners and the government.

A distinction is drawn between the 13 general principles – which are intended to orient implementation at all levels – and the 31 operational guidelines – which address responsibilities of specific actors (governments, enterprises, labour recruiters, and employers) in the recruitment process, and include possible interventions and policy tools.

Workers' organizations played an important role in the formulation and adoption of the principles and guidelines, and recognize the guidance as a strategic and important tool to effectively inform their policy advocacy efforts, monitor their implementation and support the identification of responsibilities of each stakeholder, including those of trade unions.

► Recruitment fees and related costs

The principles and guidelines are complemented by the definition of recruitment fees and related costs, adopted in a Tripartite Meeting of Experts in November 2018. The definition is to be read alongside the principles and guidelines.

Evidence shows that the collection of recruitment fees and related costs increases the risk of debt bondage and human trafficking. The ILO found that the "costs

of coercion were approximately US\$21 billion, with the total amount of underpaid wages estimated to be US\$19.6 billion, with the remaining US\$1.4 billion attributed to illegal recruitment fees".² Data from the ILO–KNOMAD surveys on migration costs³ highlights that the fees and costs paid by migrant workers can amount to anything between nine months to one year of a workers' expected salary.⁴

1 For example: the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Private Employment Agencies Convention, 1997 (No. 181); the Domestic Workers Convention, 2011 (No. 189); and the Protocol of 2014 to the Forced Labour Convention, 1930.

2 ILO, Profits and poverty: the economics of forced labour. Geneva: ILO. 2014.

3 The KNOMAD-ILO Migration and Recruitment Costs Surveys aim to systematically document monetary and non-monetary costs incurred by migrant workers seeking jobs abroad. The project is a joint initiative by the Global Knowledge Partnership on Migration and Development (KNOMAD), which is hosted at the World Bank, and the International Labor Organization (ILO).

4 International Labour Office (2017). "Addressing governance challenges in a changing labour migration landscape", Report IV, International Labour Conference, 106th Session, 2017.

The principle that workers should enjoy free placement and employment is recognized in ILO Migration for Employment Convention (Revised), 1949 (No. 97) (C97), ILO Private Employment Agencies Convention, 1997 (No. 181) (C181) and Employment Service Convention, 1948 (No. 88) (C88). However, until the adoption of the definition in 2018, there was no internationally recognized definition of what recruitment fees and costs entail, and in practice relatively little is known about worker-paid migration costs. Nonetheless, it is widely known that both local and international recruitment processes entail costs. The principle is clear, while there is space to reduce costs in general for all those involved in recruitment,

recruitment costs exist and of course have to be paid, though not by the workers.

Against this background, and with the view to provide clarity on what constitutes recruitment fees and related costs, the ILO Tripartite Meeting of Experts agreed on a common definition of recruitment fees and related costs. This definition represents a major step forward to guide constituents in designing, implementing and monitoring law, policies and practices on recruitment. It is also key that trade unions take ownership and use it as a practical tool to provide information and services to workers and advocate for their rights.

Definition of recruitment fees and related costs

The definition of recruitment fees and related costs, which is meant to cover both national and cross border recruitment:

- Refer to any fees or costs incurred in the recruitment process in order for workers to secure employment, regardless of the manner, timing, or location of their imposition or collection.
- Recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits.
- The recruitment fees and related costs considered under this definition should not lead to direct or indirect discrimination between workers who have the right to freedom of movement for the purpose of employment, within the framework of regional economic integration areas.

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;
- insurance costs;
- costs for skills and qualification tests;
- costs for training and orientation;
- equipment costs;
- travel and lodging costs; and
- administrative costs.

► How can trade unions promote, contribute, monitor and advocate for fair recruitment?

“Clearly, migration is first and foremost a labour issue: it is about the movement of workers, crossing borders to find employment; it is about equal treatment for these workers, about their conditions, and their rights”⁵

Firstly, it is important to emphasize that fair recruitment and fair migration are a trade union issue because migrant workers represent a significant part of the world’s workforce and are particularly vulnerable to abuse in the labour market. Indeed, migrant workers constitute an increasing percentage of the workforce in agriculture, construction, health care and domestic services, electronics, textiles, manufacturing, food processing and the hotel and restaurant trade.⁶ These are often industries vulnerable to high levels of exploitation, low wages, and poor working conditions. Fair migration and fair recruitment, as a determining step in the working and migration experience, are thus key labour issues.

Trade unions have a key role by taking the lead in promoting a rights-based approach to labour migration. [The ILO manual for trade unionists](#) points out several reasons for this commitment:⁷

- Human rights are universal: “Migrant workers, regardless of their status, are first of all workers but above all human beings. As such, they have rights, including freedom of association – the right to form or join a trade union [...]. Trade unions are in the business of protecting all workers, not just their members. This is why trade unions fight for equality, for decent work for all, for social protection and against child labour or forced labour, although not all these workers will be

union members. This is because trade unions care for society as a whole [...].”

- Another reason is that for nationals, “protecting the rights of migrant workers is the best way to protect the rights of national workers and avoid attempts to place migrant and national workers in competition with each other, as this would only serve the interests of unscrupulous employers looking for cheap labour.”
- Existing unions can revitalize their membership by organizing migrants because these workers are also potential members for trade union organizations. “Labour market restructuring in the developed economies has meant that trade union membership and density have shrunk in many once highly unionized sectors. The average age of union members has risen.”



People reading a checklist for migrants in front of the Migration Resource Centre (MRC) in Charikot, Dolakha district, Nepal
©ILO/Crozet M.

⁵ ILO, In search of Decent Work – Migrant workers’ rights: A manual for trade unionists. Geneva: ILO. 2008.

⁶ Ibid.

⁷ Ibid.

► Emerging good practices

Being the primary advocates of workers' rights and interests, workers' organizations play a crucial role as monitors, capacity-builders and policy-influencers. They constitute key actors in activities to combat unfair recruitment and its links to trafficking and forced labour. They have a thorough understanding of the needs and issues faced by migrant workers during the recruitment process. As permanent, reliable, democratic and independent organizations responsible for protecting workers rights, trade unions play a major role in not only maximizing the positive aspects of fair migration, but also minimizing the negative ones and protecting migrant workers from any negative consequences of unfair migration and unfair recruitment practices. To ensure fair migration, trade unions must be actively engaging in social dialogue and tripartite discussions on migration, working at the policy level influencing the formulation of national legislation and policies on fair migration, and at the field level creating awareness, protecting, informing and organizing workers, as well as identifying and reporting abuses.

In recent years, in support to calls for action against debt bondage, trafficking in persons, and forced labour, workers' organizations have actively promoted the ILO fair recruitment principles and guidelines and definition and adopted promising initiatives with the aim of improving recruitment practices, including through the elimination of worker-paid recruitment fees. Evidence shows that unions can play a critical role in particular in three broad areas: a) promoting fair recruitment and social dialogue, and influencing policy dialogue; b) monitoring recruitment practices and; c) delivering services to workers. These broad areas of action are inclusive and are generally interlinked (e.g. the monitoring role may enable unions to better identify the challenges and gaps in order to deliver services to workers; and to document cases of abuses which can then serve as an advocacy tool to influence the policy dialogue). This brief identifies and presents a few cases of practical action adopted by trade unions to promote fair recruitment under each of these areas.

A new ILO Convention to address violence and harassment in the world of work

In order to combat violence and harassment in the world of work, the 2019 International Labour Conference adopted the [Violence and Harassment Convention, 2019 \(No. 190\)](#) and the [Violence and Harassment Recommendation, 2019 \(No. 206\)](#). Article 11 of the Convention states that Members shall, in consultation with representative employers' and workers' organizations, seek to ensure that "violence and harassment in the world of work is addressed in relevant national policies, such as those concerning occupational safety and health, equality and non-discrimination, and migration".

Paragraph 10 of the Recommendation states that "Members should take legislative or other measures to protect migrant workers, particularly women migrant workers, regardless of migrant status, in origin, transit and destination countries as appropriate, from violence and harassment in the world of work." Paragraph 23(d) of the Recommendation calls on Members to fund, develop, implement and disseminate as appropriate "public awareness-raising campaigns in the various languages of the country, including those of the migrant workers residing in the

country, that convey the unacceptability of violence and harassment, in particular gender-based violence and harassment, address discriminatory attitudes and prevent stigmatization of victims, complainants, witnesses and whistle-blowers".



Workers' representatives speak at the Committee on violence and harassment in the world of work. 107th Session of the International Labour Conference. Geneva, 2 June 2018. ©ILO/Crozet/Pouteau

In the case of migrant workers, recruitment takes place across countries and jurisdictions, hence the importance of supporting fair recruitment practices in both origin and destination countries. Joint collaboration between trade unions along labour migration corridors can reinforce the strength and the efficiency of actions. Country of origin and country of destination trade unions can network to support migrant workers. For example, this collaboration can take the form of a bilateral agreement containing provisions to facilitate the functioning of such activities, and facilitate migrant worker access to unions (in line with the law of the respective countries).

A. Advocacy for fair recruitment

Trade unions have also an instrumental role in promoting fair recruitment and social dialogue in bipartite and tripartite mechanisms and collective bargaining agreements. Social dialogue is a vital aspect of ensuring fair recruitment, particularly when it comes to advising governments on legislation and policy. For example, trade unions could advocate for the creation of functional bipartite and tripartite labour inspection committees and play constructive roles in these bodies. An active role in the formulation of sound labour inspection legislation and policies and in the monitoring of their implementation could also be envisaged.

Trade unions should also be involved in the governmental bilateral labour agreement (BLAs) negotiations, as they can effectively provide mechanisms that will protect and promote migrant workers' rights, including those that deal with fair recruitment. Trade unions can advocate to be included in the discussion in the various steps of a BLA process (including development, negotiation, monitoring, and evaluation) as well as in a possible joint committee mandated to monitor the implementation of the BLA and to foster the alignment of the agreement with international labour standards and the ILO principles and guidelines and definition.

Furthermore, linked with section A, trade unions may use evidence-based documentation for policy advocacy in order to improve the recruitment landscape and the legal framework, including by pushing for the ratification of relevant ILO Conventions.

Case A1

UNIFIED STANDARD CONTRACT FOR MIGRANT GARMENT WORKERS IN JORDAN



The ILO and social partners are helping match Syrian refugees and Jordanians with jobs in Jordan's garment sector.
©ILO/Abdel Hameed Al Nasier

The garment sector in Jordan employs many migrant workers (about 40,000) and the practice of migrant workers signing multiple contracts in their home country and then in Jordan was found to be common. With a view to addressing this contract deception, as part of a sector-wide collective bargaining agreement between employer associations and the General Trade Union of Workers in Textile, Garment and Clothing Industries, it was agreed to introduce a unified standard contract with clear outlines of wages and working conditions. This achievement was the result of hard negotiations between the employers, the government and the union. The Jordan trade union played a key role in promoting fair recruitment in this process.

Case A2

TRADE UNIONS INVOLVED IN GOVERNMENT-TO-GOVERNMENT BILATERAL LABOUR AGREEMENTS

Representatives of workers and employers are not commonly involved in multilateral and bilateral labour agreements. However the 2013 Philippines–Germany health professionals BLA presents a good example in this regard. Even though it was not foreseen in the agreement, following negotiations with the two governments, trade unions from both countries (PSLink and Ver.di) were invited to become members of the Joint Committee. The Joint Committee was responsible for adopting the implementing guidelines,

monitoring the implementation, recommending proposals to amend the agreement as well conducting periodic meetings. The participation of trade unions enabled Filipino nurses to have access to PSLink and Ver.di unions who were able to provide information and organize the workers. The unions were also able to review job descriptions and monitor the deployment and recruitment conditions of workers.

Case A3

POLICY REFORMS AS A RESULT OF BRITISH TRADE UNIONS' INFLUENCE

Under the impetus of the 'Temporary Labour Working Group' – a consortium aiming to establish a set of minimum standards for employment agencies – trade unions supported the passing of the Gangmasters (Licensing) Act in 2004, which established the [Gangmasters and Labour Abuse Authority](#). The role of the agency is to “protect vulnerable and exploited workers” by regulating the supply of workers in several industries and by imposing licensing on employment agencies. In 2009, trade unions supported amendments to [the Coroners and Justice Bill \(#71\)](#) that made slavery, forced or compulsory labour and servitude criminal offences.

Case A4

TRADE UNION ENGAGEMENT WITH THE ILO'S INTERNATIONAL LABOUR STANDARDS SUPERVISORY MECHANISMS



Thai trade unions protest for migrants' rights in front of the ILO Office in Bangkok ©ILO

In September 2010, the State Enterprise Workers Relations Confederation (SERC) – a confederation of 43 unions in Thailand – made a submission of a comment to the ILO's Committee of Experts on the

Application of Conventions and Recommendations (CEACR) regarding “the Royal Thai Government's failure to observe the equality of treatment (accident compensation)”, in relation to the ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (C19).

SERC argued that “Thailand continues to deny to migrant workers (and their dependents) from Myanmar who are injured or killed in workplace accidents within its jurisdiction treatment with respect to workmen's compensation which is equal to what it grants Thai nationals”. In their [observation](#), inter alia based on the information provided by SERC and from their monitoring and oversight activities, the CEACR “requested the [Thai] Government to take positive and urgent measures to review the policy and legal framework concerning social security coverage and protection of migrant workers in case of occupational accidents and to instruct the Social Security Office to lift restrictive conditions and facilitate access of migrant workers to the Workmen's Compensation Fund irrespective of their nationality”. In their response, the Thai Government indicated that “it has already taken action to address the problems [...] and that it intends to ratify Conventions Nos 87 and 98 to protect the rights of Thai and migrants workers [...]”. Lastly, the CEACR “urge[d] the Government to ensure that these measures achieve rapid and substantial results on the ground in the near future and, that the measures effectively eliminate cases of denial of emergency medical care and related benefits to uninsured migrant workers suffering industrial accidents referred to by the SERC”.

This example shows how documentation of labour issues for the purposes of policy advocacy, carried out by trade unions, enables the issues to enter both national and international platforms. Furthermore, the case demonstrates the important role that trade unions have to play in submitting comments to the CEACR, which examines the reports on the ILO Conventions regularly provided by governments (Article 22 of the ILO Constitution).⁸

Case A5

BIPARTITE SOCIAL DIALOGUE TO PROMOTE FAIR RECRUITMENT

Since 2016 the ASEAN Confederation of Employers (ACE) and the ASEAN Trade Union Council (ATUC) have held dialogue sessions with the aim to identify common areas of interest in labour migration and actions to undertake jointly. The [first dialogue](#) concluded with an outcome statement which contained joint action to address common concerns

⁸ See more in section 5 of ILO (2008) In search of Decent Work – Migrant workers' rights: A manual for trade unionists.

such as mutual recognition of skills for medium and low-skilled workers, social protection for migrant workers, ethical and fair recruitment, and protection of migrant workers throughout the migration cycle. The [2019 dialogue session](#) “further recommended strengthening tripartite social dialogue mechanisms in the formulation and implementation of laws, policies and programmes to realize the ASEAN Consensus principles and commitments and allowing tripartite participation in monitoring and evaluating implementation of the ASEAN Consensus and its Action Plan at national level”. This initiative is an example of cooperation and a joint lobbying strategy between representatives of workers and employers.

Case A6

INDONESIAN TRADE UNION LOBBYING FOR LEGISLATIVE CHANGE TO GREATER PROTECT MIGRANT WORKERS

In 2014, the Konfederasi Serikat Buruh Seluruh Indonesia (KSBSI) built a network of various migrant labour civil society organizations (JARI PPTKLN, Network for Revision of Placement and Protection of Overseas Workers) to lobby for legislative change of Law No.39/2004 on the Placement and Protection of Indonesia Workers Overseas. The network employed the strategy of examining and analysing the existing law, calling on experts for comment and input to the draft, conducting public outreach campaigns (including developing leaflets, handbooks and posters, and engaging with the media); and submitted proposals and comments to the government. The network also lobbied parliament members to ensure that their proposals were accommodated. In 2017, a new law ‘No.18/2017 on the Protection of Indonesian Migrant Workers’ was passed by the parliament to replace Law No.39/2004. The new law imposes heavier sanctions for violators – Article 83 states that every person who deliberately places workers in employment that does not match the employment contract (which causes harm to the migrant workers), will face imprisonment and fines.

B. Monitoring and oversight role

Labour inspection services and grievance mechanisms are crucial for ensure fair recruitment. Labour inspectors are mandated to conduct regular or ad hoc inspections, provide guidance and advice to both employers and workers, including migrant workers, prevent abuses, and support effective and appropriate enforcement in cases of non-compliance. However, there are situations in which these stakeholders do

not fulfil this role. There are also situations in which workers, especially migrant workers, are not able to file grievances with the relevant authorities due to fear of intimidation or retaliation. In this regard, the ILO principles and guidelines for fair recruitment underline that “all workers, irrespective of their presence or legal status in the country, should have access to free or affordable grievance procedures and other dispute resolution mechanisms to address alleged abusive treatment in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred”.⁹

Thus, in collaboration with the labour administration system and/or by complementing the work performed by the State inspectorate or enterprises, trade unions have a key role in:

- detecting if fair recruitment principles are respected by recruiters and employers, and, if not, denouncing;
- checking if complaint and dispute resolution mechanisms are available, accessible and function properly and effectively; and
- facilitating workers’ access to these mechanisms and supporting workers in going through the labour courts.

To do so, trade unions can:

- carry out field visits to the location of workers – if possible;
- conduct surveys on working conditions, including interviews with workers; support the identification and reporting of abuses of workers’ working conditions;
- understand labour and recruitment regulations applied in the countries of origin and destination respectively;
- identify recruiters who comply with the ILO fair recruitment principles and guidelines and definition, and provide that information to the workers to encourage them to use only compliant recruiters;
- participate in human rights due diligence procedures at the enterprise level in order to influence and monitor the procedures; and
- monitor recruitment agencies, including intermediary recruiters, in order to detect the payment of recruitment fees and other costs by workers (e.g. see below the Recruitment Advisor implemented by the International Trade Union Confederation); and where cases of violations are identified, in addition to taking action at the national level, taking action through the ILO’s supervisory mechanism should also be considered.

⁹ International Labour Office (2017). “Addressing governance challenges in a changing labour migration landscape”, Report IV, International Labour Conference, 106th Session, 2017.

These activities allow trade unions to have a clearer picture of the reality on the ground and to better identify the needs and gaps in legal protection and enforcement (see section A).

All these actions can shed light on unfair recruitment practices and serve as tools for advocacy with government and authorities to effectively address the reported issues (see section A). These actions also help to identify the needs of workers and to provide the necessary services accordingly (see section C).

Case B1

TRADE UNION RESEARCH ON RECRUITMENT FEES IN HONG KONG (CHINA) – FADWU AND PLU



Wai Ling Ng, Trade Union activist talking with two domestic workers in Hong Kong (China), ©SteveMcCurry/ILO

Domestic workers comprise a significant part of the global workforce in the informal economy and are among the most vulnerable group of workers. The Asia and Pacific region hosts 35 per cent of the world's migrant domestic workers and Hong Kong (China), in particular, is a major employment destination (about 380,000 migrant domestic workers officially employed in 2018; Filipinos and Indonesians workers are the largest numbers).¹⁰

The Federation of Asian Domestic Workers Unions (FADWU) is the only registered trade union of domestic workers in Hong Kong (China) organising local and migrant domestic workers. The Progressive Labor Union of Domestic Workers Hong Kong (PLU) is affiliated with FADWU. These unions, in collaboration with other national and international organizations such as the International Domestic Workers Federation (IDWF), play a very active role in the promotion and protection of migrant workers' rights, including in the monitoring and oversight of recruitment practices.

Over the last several years, many investigations have documented the recruitment and placement practices and reported some abuses against migrant workers perpetrated by Hong Kong (China) employment agencies and their counterparts in the countries of origin. A [research study](#) conducted by FADWU and the PLU in 2016 found that illegal fees paid by Filipino domestic workers were 25 times of the amount permitted by the Hong Kong (China) legal framework. It also reported other abuses such as exploitative terms and conditions of work (e.g. limited freedom of movement and threats). Lastly, the employment agencies' role was highlighted and the report concluded that the Filipino and Hong Kong (China) government's measures to protect migrant workers were inadequate.

To address these issues, in January 2017 the Hong Kong Labour Department adopted a [code of practice for employment agencies](#), which involves, inter alia, the setting out of minimum standards for these agencies. This action highlights the potential policy-influencer role of trade unions.

Following this policy response, FADWU and PLU undertook another research study in 2018 ('Agents of Change? Assessing Hong Kong employment agencies' compliance with the Code of Practice') to monitor the compliance of employment agencies' practices with the standards of the code of conduct and to assess the impact of this policy. They carried out more than 450 interviews with workers coming from the Philippines and Indonesia as well as a series of undercover video and audio recordings at different employment agencies. Although some positive actions have been taken, such as the adoption of the code of practice and the passage of the Employment Ordinance 2018, the new report noted that most agencies were still not complying with key aspects of the code of conduct (including by charging illegal fees to workers), and were still enjoying a certain degree of impunity due to a lack of effective enforcement action by the government.

¹⁰ FADWU (2018) Agents of Change? Assessing Hong Kong employment agencies' compliance with the Code of Practice

C. Service provision

This area of action aims to offer very concrete and practical support to workers, including migrant workers throughout the migration cycle, and in collaboration with other trade unions across the migration corridors. Considering the specific context of countries (e.g. lack of regulation, weak enforcement of laws, limited freedom of association which challenges the organization of workers, limited access to justice), workers may face some particular barriers with regard to their rights. In addition, given the complexity of the recruitment industry and the wide range of actors, both regulated and unregulated, workers cannot easily access information on fair recruitment practices and most migrant workers lack information about their rights and obligations accordingly.

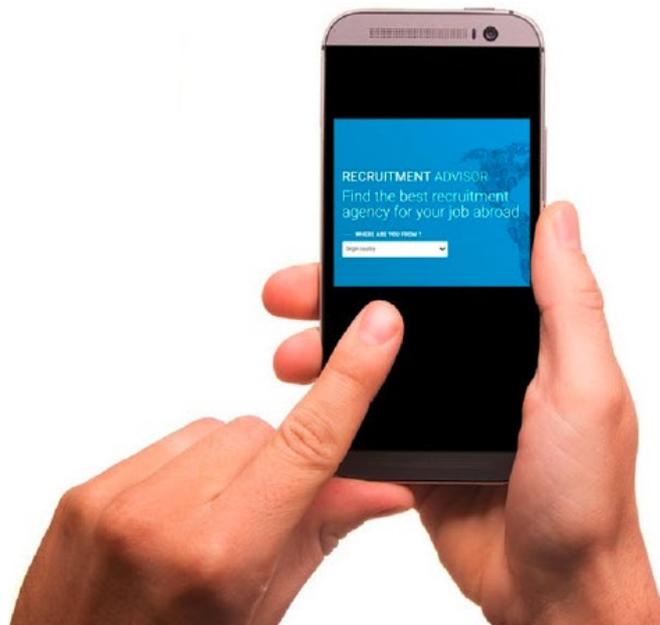
To address this, trade unions have a key role in:

- **Protecting workers**, for example, through case management and providing assistance to workers in areas such as legal representation, follow up on medical treatment, support for immigration issues, or collaboration with labour attachés of countries of origin. In the area of justice, it may be by filing cases to labour and civil courts, or representing a claimant during industrial disputes and labour claims.
- **Organizing workers**, for example, by establishing contact with and between workers (through a registration system or an exchange group on a social media), trade unions may facilitate the development of workers' networks. These networks may allow workers to share information, advocate for their rights, or provide information and outreach potential workers. The use of online or social media organizing is particularly crucial to reach isolated workers such as domestic workers.
- **Informing workers**, for example, disseminating information (e.g. on living conditions, rights, and the ILO fair recruitment principles and guidelines and definition) and providing counselling on safe migration and rights at work. Trainings may be delivered for example in financial education, security and health at work, vocational training, or language courses.

These services may be provided physically through trainings or at a dedicated centre (such as a migrant worker resource centre, see below), remotely (either online or through phone) or through broadcasts on local radio and television.

Case C1

THE RECRUITMENT ADVISOR AND THE ABUSE CASE DOCUMENTATION SYSTEM



The Recruitment Advisor is a web-based review platform of labour recruiters, developed by the International Trade Union Confederation ©ITUC

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 and is currently being tested in several countries (including Nepal, Indonesia, the Philippines and Kenya).

The logic behind this website idea is to pool and share 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. These assessments act as positive market incentives for recruitment services' providers to perform and deliver quality services. 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.

A complaint mechanism component is currently being developed to complement the MRA. The complaint mechanism will be based on the existing case documentation system developed by Migrant

Forum in Asia (MFA), the Migrants Rights Violation Reporting System (MRVRS), also known as Hamsa. The online application “aims to record, store, and manage information about human rights and labour rights violations against migrant workers and members of their families”. Furthermore, the MRVRS database facilitates the generation of statistics and consolidated reports that can be used for advocacy. Once a complaint has been made, the coordinator in the MFA Secretariat notifies the national coordinators in the concerned country/ies, who will then notify the appropriate members and/or partners to assist in the case.

Case C2

TRADE UNION-RUN MIGRANT WORKER RESOURCE CENTRES



UGTT focal point and ILO FAIR II Project National Project Officer at the Migrant Resource Centre in Sfax, Tunisia, December 2019 ©ILO/Van Panhuys

The process of service provision for migrant workers led by the Tunisian General Labour Union (UGTT) is an example of emerging good practice and a replicable model. With the support of the [ILO's FAIR project](#), UGTT began discussions on the protection and organisation of migrant workers in Tunisia in light of changing migrant trends in Tunisia. ILO, UGTT and civil society met with migrant workers employed in various sectors to better understand their needs and the challenges they faced. After this awareness-raising period, UGTT engaged in participatory strategic planning. They developed an action plan based on a series of dialogue sessions with members and migrant workers which allowed them to identify the specific needs of the Tunisian context. UGTT launched a regional network of focal points on labour migration across Tunisia, responsible for being the first point of contact for migrant workers.

Thereafter, training sessions on fair recruitment and labour migration governance as well as on the role and responsibilities of trade unions on these issues were delivered to UGTT's members. UGTT then established migrant resource centres (“Espace migrants”) which provide reliable information to migrant workers (for example on available basic services, rights at work), deliver training, and provide services in the case of labour disputes. They have also developed a very comprehensive guide targeting migrant workers which provides practicable information on rights with legal references, and a directory of useful organizations. The next steps are now to operationalize and replicate these activities across the country as well as to further develop legal assistance and data collection to monitor the services.

Similar initiatives are being started in several countries (including Pakistan, Mexico, and Sri Lanka) as part of the [ILO REFRAME project](#). For example, a training workshop on fair recruitment was organized in 2018 in partnership with the Confederación Revolucionaria de Obreros y Campesinos (CROC) (trade union) in Mexico. A tripartite working group on fair recruitment for the State of Baja California was established as a result of the training and the group is currently jointly developing a Manual on Recruitment of Migrant Workers. CROC is also aiming to organize a bilateral trade union forum on labour migration and fair recruitment in 2019 in order to disseminate the ILO fair recruitment principles and guidelines and definition, and engage other trade unions on these issues.

The Migrant worker Resource Centre (MRC) in Tunisia has been replicated from a model developed by the ILO GMS TRIANGLE project in Asia and run by the

► **Trade union action to promote fair recruitment for migrant workers**

respective national trade unions.¹¹ Several of these MRCs are now operating both in countries of origin and of destination. There is also joint collaboration between trade unions in countries of origin and destination, such as the joint plan of action between the unions in Malaysia and Viet Nam, resulting of the [signature of a Memorandum of Understanding](#).

Case C3

INNOVATIVE INFORMATION AND TOOLS FOR DOMESTIC WORKERS IN ARGENTINA

The Unión Personal Auxiliar de Casas Particulares (UPACP) is a domestic workers union in Argentina. Although numerous challenges and issues related to fair recruitment remain, Argentina has implemented a series of policies and practices aiming to improve working conditions of domestic workers over the last several years. UPACP has been working to ensure migrant domestic workers' rights by developing and delivering many services to these workers, in particular by improving access to information. UPACP has developed a comprehensive website which provides, for example [guides for domestic workers](#) in the form of videos, on topics such as labour rights, wages, freedom of association, paid leave, etc., and an [accurate wage classification system](#) in accordance with current legislation. UCACP has also developed a smartphone application targeting domestic workers with the aim to provide straightforward and accessible information on rights and legal protection as well as available networks and contacts. There is now a willingness to use and replicate this application in other South American and Central American countries.

Case C4

UNION TO UNION INTERNATIONAL COOPERATION: THE CORRIDOR APPROACH



Justice without Borders, with partners including FADWU and the Hong Kong Confederation of Trade Unions, after a landmark decision on a client's case, making access to video conferencing in Hong Kong (China) courts a reality for migrant workers, so they can pursue justice after they return home ©Justice Without Borders

The collaboration of trade unions between the countries of origin and countries of destination may be particularly efficient and valuable, including in service provision to migrant workers. A strong link exists between unions in the Philippines and Hong Kong (China), in particular between the SENTRO and the PLU Hong Kong (China). This collaboration has allowed the design of coordinated interventions at both ends of the corridor and the sharing of information on the issues and concerns in Hong Kong (China) (for Filipinos workers) and in the Philippines (for return migrants). The International Domestic Workers Federation has fostered this collaboration by playing a coordination role.

Access to justice in this corridor has also been enhanced. Indeed, PLU and SENTRO with the support of the organization Justice Without Borders, have enabled access to justice for migrant workers while they remain in Hong Kong (China) but also once they return to the Philippines.

¹¹ For further information see: [ILO TRIANGLE in ASEAN Migrant Worker Resource Centres](#) and ILO (2014) Migrant Worker Resource Centre operations manual.

► Conclusion

This brief has provided information on the challenges and issues in terms of workers' recruitment in today's world of work. It has also presented the ILO fair recruitment principles and guidelines and definition, which provide practical guidance on protecting workers from abusive recruitment practices and promoting fair recruitment.

As shown through several emerging practices around the world, trade unions can have a key role in this critical issue as (a) policy-influencers (b) monitors, as well as (c) capacity-builders and service providers. In practice, unions must take the following first steps:

- engage with migrant workers;
- conduct surveys on migrant workers' conditions in order to identify and report possible abuses;
- understand the labour and recruitment regulations applied in the countries of origin and destination; and
- identify workers' needs and gaps in legal protection and enforcement.

These combined actions then allow unions to:

- use the evidence collected for policy advocacy by promoting fair recruitment and social dialogue (e.g. in bipartite and tripartite mechanisms, collective bargaining agreements, governmental bilateral labour agreements) in order to influence the policy framework and recruitment landscape;
- monitor if fair recruitment principles (including access to justice) are respected and, if not, denounce the abuses; and
- provide services to workers in three areas of action:
 - Protecting workers by providing assistance (e.g. facilitate and support workers' access to justice, support and follow up for medical treatment).
 - Organizing workers by facilitating the development of workers' networks.
 - Informing workers by disseminating information (e.g. on living conditions, rights, terms and conditions of employment) and delivering trainings (e.g. security and health at work, language courses, vocational trainings).

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