



International
Labour
Organization

Fair recruitment initiative

Working paper no. 3: Executive summary

Global labour recruitment in a supply chain context

The Fair Recruitment Initiative aims to foster fair recruitment practices, prevent human trafficking and reduce the costs of labour migration. This multi-stakeholder initiative is being implemented by the ILO in close collaboration with governments, employers' and workers' representative organizations, the private sector and other key partners. It has a four-pronged approach with social dialogue at the centre. The four main objectives are i) to enhance global knowledge on national and international recruitment practices and regulation, ii) to strengthen laws, policies and enforcement mechanisms, iii) to promote fair business practices, and iv) to empower workers who have suffered abuse in recruitment to lodge complaints and provide them with access to remedies.

To contribute to the first objective, the ILO is publishing a series of Working Papers to advance and share knowledge on policies, laws, current practice and challenges related to the recruitment of workers within and across countries. The purpose is to stimulate discussion and share emerging practices so as to foster fair recruitment.

This paper calls for an approach to international recruitment that, until recently, has received little attention: reshaping the market for recruitment services by involving the most powerful actors in that system, namely the employers who are at the top of the labour supply chain. The study finds elements of such an approach in regulatory efforts undertaken in the Philippines, the Netherlands, the United Kingdom, and several Canadian provinces. It further examines agreements negotiated by U.S. agricultural workers' organizations with employers, which govern the terms of recruitment for migrant workers.

The paper draws on these public and private case studies to propose key features of a recruitment regime that could preserve its important matching functions, but do so at a fair cost that is shared among all of the actors that benefit from labour migration.

Destination country governments historically have paid little attention to problems with recruitment, which usually occur outside their sight and beyond their jurisdiction. When they have taken action, it has largely focused on either the worst or the best actors in the migration chain. A number of governments have targeted traffickers and organized criminals who recruit migrants into situations of forced labour. International organizations and NGOs meanwhile have developed voluntary codes of conduct or certification schemes, inviting brand-sensitive transnational companies to sign up to a set of principles to govern recruitment in their supply chains.

Origin country governments have also attempted remedial action but have faced significant obstacles to success. The structure of the labour recruitment system makes it difficult to regulate. It has low barriers to entry, minimal capital requirements and often no need for fixed offices, leading to the extensive use of subcontractors and providing a breeding ground for fly-by-night firms. Yet, the enterprise at the top of the supply chain derives benefit from the work undertaken by its subcontractors down the chain, and hence should bear some responsibility for the treatment of their workers. Government regulation is one way to make end users accountable for the labour and recruitment conditions of their subcontractors and labour providers. In addition, organizing efforts by workers and consumer-led action may also play a similar role. Supply chain organizing strategies have received particular focus in the agriculture sector, where most products are purchased by transnational retailers that demand low prices. The international product supply chain has been the target of organizing since the 1990s; what is new is the use of those same strategies to improve treatment of workers in the labour supply chain.

The paper offers some recommendations, which are based on information gathered in the case studies and presented as a basis for further discussion.

First, a clear set of standards to govern the activities of recruiters is needed. These measures may be established legislatively, or via voluntary agreements such as codes of conduct, in countries of origin or destination or both. One possible approach evidenced by this report would be for regulations to hold employers jointly liable for the violations of recruiters, while offering them a significant benefit—such as temporary work visas—if their recruiters adhere to the standards. Alternatively, laws in origin countries could require the employer, before hiring a worker from that country, to sign a contract agreeing to joint liability for recruitment abuses; this would require coordinated enforcement by both origin and destination countries. Beyond legal liability, voluntary schemes may also contribute to effective regulation if sufficient incentives for wide recruiter and employer participation are created.

Second, under a joint liability regime, employers must find a way to assure themselves that the labour recruiters they use do not commit violations. This will give rise to employer demand for a “recruiter seal of approval” as proof that a firm has done due diligence in contracting its recruitment agencies, or for the option to use a designated recruitment process. Various ways to create such a seal of approval or “safe harbour” have been evidenced by these case studies.

Third, national regulatory systems may benefit from involving workers in the design of policies and regulations. Workers can recommend standards and procedures based on their first-hand knowledge of how recruitment works, or can assist in monitoring recruiter behaviour and regulations should provide workers with multiple routes through which they can report fraudulent or abusive practices. Trade union campaigns and collective bargaining provide other avenues through which workers may influence the behaviour of governments, employers and labour recruiters.

Fourth, sanctions can influence employers’ decision-making regarding compliance. Positive incentives, in combination with penalties for non-compliance, must effectively counter any perceived benefits of non-compliance. Where positive incentives and negative sanctions are effectively enforced, non-compliant recruiters may have difficulty finding employers to work with. This will be especially so where joint liability exists between contractors and sub-contractors.

Fifth, bilateral agreements between origin and destination countries may help bridge regulatory gaps and make firms and agencies liable for each other’s violations. Where government-to-government bilateral agreement is not possible, bilateral pilot projects between individual government agencies or between provincial authorities might still be feasible. Similarly, establishing links between advocates and trade unions in both countries can contribute to ensuring worker protection. Both destination and origin countries also play important and complementary roles in the enforcement of national laws and in providing remedies to migrant workers who have suffered abuse.