

Policy Brief No. 8: THE ROLE OF MISSIONS IN PROTECTING AND PROMOTING THE RIGHTS OF MIGRANT WORKERS

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BACKGROUND

Migrant workers in crisis in destination countries are often advised to look to their foreign missions for assistance. Of particular concern to MFA is the degree to which foreign missions of migrant countries of origin take up their responsibility to actively engage in the protection of the human and labour rights of migrant workers. Zealous oversight and engagement with the migrant worker community should occur as a matter of course, given the mission's obligation to serve its nationals abroad.

However, consultations with MFA members and partners across countries of origin and destination have revealed that the assumed functions of foreign missions and their diplomatic staff are not always carried out in practice. Some countries of origin do not even have mission posts in major destination hubs for their workers, while others are understaffed and lacking in expertise and human rights training. In such cases, foreign missions adopt ad hoc responses to crises involving migrant workers and often fail to meet their needs.

Migrant communities and migrants' rights advocates have long held that foreign missions must strengthen their presence, responses, and advocacy on behalf of their nationals, particularly when human rights violations occur. There is an evident gap between the perceptions of embassy officials and migrant communities with respect to the role of the foreign mission. Diplomatic staff often cite a dual role—providing assistance to their nationals while simultaneously working to maximize the number of jobs available to their nationals in the host country's labour market. This dual role often leads to damaging compromises, such as the acceptance of lower labour standards for their nationals. In addition, diplomatic staff tend to prioritize repatriation for migrants in distress rather than providing assistance in access to justice and/or redress in the case of rights violations—responsibilities that many citizens of their country expect their governments to fulfil.

Thus, it is necessary to consider the role of foreign missions as set out in international law, the responsibilities that citizens expect their embassies to fulfil, and the human rights obligations of countries of origin whose economies are so tied to the remittances their nationals provide.

PUBLIC PERCEPTIONS OF THE ROLE AND RESPONSIBILITY OF FOREIGN MISSIONS

Redress for Rights Violations

In 2013, The Guardian published an article about Nepali construction workers in Qatar¹. The article revealed grave labour rights abuses and deaths of migrant workers, implicating the Qatari government in these tragedies. Although The Guardian has directed its concerns towards the receiving state of Qatar, it also highlighted migrant workers' attempts to access assistance from the Nepali embassy.

“About 30 Nepalese sought refuge at their embassy in Doha to escape the brutal conditions of their employment”².

While the article points to the particular situation of Nepali migrant workers in Qatar, it also suggests nationals have the right to redress mechanisms from their respective governments, regardless of legal status.

Under a human rights framework, states have an obligation to respect, protect, and fulfil the labour and human rights of their nationals at home and abroad. Sending states are duty-bearers, obligated to deliver assistance to migrant workers through the services of foreign mission posts.

“...[T]he fact that a migrant entered or remained illegally does not nullify the state’s duty under international law to protect his or her basic rights without discrimination, for example against torture, degrading treatment, or forced labor.” (Grant, 2005)

Increased labour mobility will result in increasing demands on foreign missions to provide assistance to migrant workers. The consular department of a mission or consular post is usually the first point of contact for migrant workers, particularly those in distress who are seeking assistance.

Consular departments are not only responsible for the safe migration of their nationals to the destination country through documentation services, but must be an immediate resource and source of support for migrant workers in distress.

WHAT IS THE ROLE OF MISSIONS ACCORDING TO INTERNATIONAL LAW?

As labour mobility increases, missions are becoming an increasingly visible stakeholder in ensuring the rights and welfare of their nationals. Through a series of consultations, MFA’s members and partners have identified various perceptions about the work of foreign missions for migrant workers, ranging from labour dispute resolution and legal assistance to shelter for distressed migrant workers. By general definition, a diplomatic mission, also known as an embassy, is located in the capital city of another country to offer a wide range of services, including consular services to its nationals.

“The mission’s primary role is national diplomatic representation but they should also feel an obligation to protect the rights of their nationals visiting or residing in other countries, including migrant workers.” (Migrant Forum in Asia, 2013)

The four international treaties that provide the most guidance on the role of missions with respect to migrant workers are the two Vienna Conventions and optional protocols, the Convention on Special Missions and its optional protocol, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Interpreting the Law

Vienna Convention on Diplomatic Relations (1961)³ . The Vienna Convention on Diplomatic Relations (VCDR)

entered into force on 24 April 1964 and is an international treaty with a two-fold objective: the codification of rules related to the facilitation of diplomatic relations between states and the inclusion of associated privileges and immunities of diplomatic missions. To allow an enabling environment for the “efficient performance” of diplomatic missions, the VCDR specified provisions such that diplomats can carry out their duties without “fear of coercion or harassment” by host countries.

Examples of such provisions include exemption from taxation, non-liability from any form of arrest or detention, inviolability of personal property, and immunity from criminal, civil, and administrative jurisdictions of receiving states as listed under Articles 23, 29, 30, and 31 respectively. These articles afford officials of diplomatic missions the necessary protections to perform their functions in assisting nationals in the receiving state. Although the role of missions is not explicitly stated, the specific key functions of diplomatic missions are outlined in Article 3 of the VCDR. Of most and immediate relevance to the interests of migrant workers are clauses 1(b) and 2. See Box 1.

Among other tasks relating to maintaining foreign relations, diplomatic missions are unequivocally bound to protect the rights of their nationals. Also noted in clause 2 is the requirement that no provisions in the VCDR shall impede the consular functions of a diplomatic mission.

¹ See Pattison, P. (2013, September 25). Revealed: Qatar’s World Cup ‘slaves’. *The Guardian*. Retrieved from <http://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves>. The Guardian news source uncovered elements of abuse and exploitation of migrant workers during Qatar’s 2022 World Cup infrastructure project in September, 2013.

² See Pattison, P. (2013, September 25). Revealed: Qatar’s World Cup ‘slaves’. *The Guardian*. Retrieved from <http://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves>. The Guardian news source uncovered elements of abuse and exploitation of migrant workers during Qatar’s 2022 World Cup

³ The Vienna Convention on Diplomatic Relations was adopted on 14 April 1961 by the United Nations Conference on Diplomatic Intercourse and Immunities held at the Neue Hofburg in Vienna, Austria, from 2 March to 14 April 1961.

Box 1: Article 3 of Vienna Convention on Diplomatic Relations

Article 3

1. The functions of a diplomatic mission consist, *inter alia*, in:

(a) Representing the sending State in the receiving State;

(b) **Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;**

(c) Negotiating with the Government of the receiving State;

(d) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;

(e) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

The *Vienna Convention on Consular Relations (VCCR)*⁴ The Vienna Convention on Consular Relations (VCCR) entered into force on 19 March 1967. This treaty's objectives complement those of the VCDR, and its provisions are applied specifically to the consular post of a sending state. While consular agents enjoy most of the same privileges and immunities of diplomatic agents, they are not offered complete immunity from “grave” crimes, and are required to attend as a witness in judicial/administrative proceedings and provide evidence when prompted (listed under Section II of the VCCR). See Box 2.

Article 17 grants consular agents the authority to carry out tasks otherwise prescribed for diplomats, increasing their capacity to assist foreign nationals. Equivalent to the codification of diplomatic missions' functions in the VCDR, Article 5 of the VCCR codifies the functions of a consular

department that are of most and immediate relevance to migrant workers in subsections (a), (c), (d), (e), (f), (g), (h), (i), and (m).

Preserved in Article 5 is the responsibility of countries of origin, through the consular post, to carry out various functions in the best interests of its nationals. However, most clauses under Article 5 stipulate that the service delivery of consular agents should be “in accordance with” or “compatible with” the laws and regulations of the receiving state. Hence, *de jure* recognition of this limitation may be viewed as problematic for sending states' ability to protect migrant workers. Ostensibly, if the laws and regulations of countries of destination are not conducive to the interests or assistance needs of foreign nationals, then the responding consular post is limited in granting such service requests to its nationals, including migrant workers. Migrant workers are in most need of their governments during emergency or crisis situations whilst in destination countries. However, migrant workers may not benefit from the most important and immediate forms of protections guaranteed by the Vienna Conventions because of conflicting interests and national priorities in receiving states.

The *Optional Protocol Concerning the Compulsory Settlement of Disputes* directs all disputes arising from interpretation or application of the Vienna Conventions to the International Court of Justice (ICJ), unless a settlement is agreed to by the parties within a reasonable timeframe. While the option of pursuing cases under the ICJ confirms the legal legitimacy of the Vienna Conventions, some states view the power of the ICJ as a threat to national sovereignty, and therefore hesitate to bring cases to that level⁵. The principle of non-interference with state sovereignty hinders the consistent application of the VCCR. As a result, many migrant workers in distress are not afforded the legal protections under Article 36 and continue to wait for other forms of assistance for violations of their human rights. See Box 3.

Convention on Special Missions (1969). The Convention on Special Missions (CSM) entered into force on 21 June 1985 and codifies rules for special missions—where ambassadors from one state are sent to another for special assignments with the consent of the receiving state. The International Law Commission (ILC) determined that due to the unique, temporary character of special missions, they deserve special regulations⁶. To facilitate the effective functioning of special missions, the CSM includes a

⁴The Convention was adopted on 22 April 1963 by the United Nations Conference on Consular Relations held at the Neue Hofburg in Vienna, Austria, from 4 March to 22 April 1963.

⁵See Weiland, S. J. (2005). *The Vienna Convention on Consular Relations: Persuasive Force or Binding Law?* *Denver Journal Of International Law & Policy*, 33(4), 675-684. Weiland examines the case, *Avena and Other Mexican Nationals (Mexico vs. United States of America)*, whereby 52 Mexican detainees were sentenced capital punishment in the U.S. The ICJ claimed the U.S.'s violations of Article 36 in the VCCR. U.S. admitted to violations but alleged ICJ's interference with its national criminal justice system. U.S. complied with ICJ's final judgement. Shortly after, President Bush withdrew from the optional protocol stipulating ICJ as the final arbiter of disputes related to the Vienna conventions.

⁶See Dembinski, L. (1988). *Temporary External Missions*. In L. Dembinski, *The Modern Law of Diplomacy: External Missions of States and International Organizations*

Box 2: Article 5 of Vienna Convention on Consular Relations

Article 5: Consular functions

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending States in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extrajudicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in subparagraph (k) of this article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen insofar as this may be authorized by the laws and regulations of the sending State;
- (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Box 3: Article 36 of Vienna Convention on Consular Relations

Article 36: Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

a. consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

b. if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

c. consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.

Box 4: Task of the Labour Attache

- Contract and employer verification
- Legal assistance and representation in courts
- Counselling
- Conciliation and mediation in case of disputes
- Representation of the interest of workers before local authorities in the worksite
- Visitation to jails and hospitals
- Repatriation of distressed workers/ remains of workers
- Custodian services/provision of shelter
- Worksite inspection
- Crisis intervention

“A ‘special mission’ is a temporary mission, representing the state, which is sent by one state to another state with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task” (United Nations, 1969)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) entered into force on 1 July 2003 and is the only UN instrument containing broad protections for migrant workers. Enshrined in the international treaty is the inexorable link between migrant workers and human rights. The ICRMW puts migrant workers at the forefront of migration issues. Although other international treaties stipulate non-discrimination in their application and are inclusive of migrant workers’ human rights, the ICRMW was specifically designed to address the vulnerable context in which migrants live and work. Effectively, many in the provisions in the ICRMW focus on the responsibility of states as duty bearers in realizing migrant workers’ rights.

Moreover, the ICRMW contains several articles with specific provisions on the role of diplomats and consuls. Article 23 states:

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the

narrower range of privileges and immunities than the VCDR, including a narrower interpretation of immunity from criminal jurisdiction and inviolability of the person.

The Convention on Special Missions does not include articles defining the functions of a special mission like Articles 3 and 5 in the VCDR and VCCR. There is also no provision differentiating the functions of special missions from the functions of permanent missions. The key characteristic of special missions is their ad-hoc nature. Special missions have been deployed by migrant countries of origin in high profile cases of abuse and/or exploitation.

rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right (United Nations, 1990).

Article 16(7) states that consular and diplomatic authorities would be informed of arrest or detention of their nationals in the receiving states. This article complements the provision of Article 36(1)(b) of the VCCR that consular posts shall receive notice of the arrest, custody, or attention of one of their nationals.

Additionally, ICRMW's Article 65 obligates states parties to facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural, and other needs of migrant workers and members of their families.

Despite the ICRMW's potential to serve as a powerful emancipating legal tool for migrant workers, it has only been ratified by 47 states. Among Asian nations, only Bangladesh, East Timor, Indonesia, Philippines, Sri Lanka, have ratified the Convention.

CRITIQUE AND ANALYSIS

Changing trends in service delivery of missions

Ad hoc consular diplomacy

As more individuals migrate for employment, more consular services will be demanded of missions. The growing demand for consular service delivery poses technical challenges for governments. Increasing media coverage⁷ of migrants' rights violations raises awareness of cases in which foreign missions are unable to provide assistance or adequate support for their nationals.

The death sentence of Flor Contemplacion, a Filipina domestic worker in Singapore, for the supposed murder of a young boy⁸, the thousands of stranded migrants during the Arab Spring protests⁹, or the deportation of a Mexican farm worker from the United States¹⁰ can dominate the news for days or months until proper remedies are pursued by countries of origin. Many cases of rights violations go unnoticed by diplomatic officials and senior staff at the missions unless there is intense public scrutiny.

High profile cases "offer unexpected opportunities for diplomatic conduct at the highest level."¹¹ Where citizens, including the diaspora, are able to make consular issues a political concern, diplomats or officials from other governmental departments, e.g., the Ministry of Foreign Affairs, take up the task of handling them.

"The prioritization of consular affairs by high officials remains, indeed, more an ad hoc response to practical challenges that relate to the reputation of individuals and the ministry alike, than a matter of intrinsic vision."

(Okano-Heijmans, 2010)

In cases in which Foreign Service officials conduct consular activity in an impromptu manner, this suggests a lean towards ad hoc consular diplomacy. For practical purposes, governments are becoming more citizen-centric as a matter of strategy in foreign affairs.

Despite the fact that more cases of human rights violations of migrant workers are being addressed by high officials, ad hoc consular diplomacy sets a potentially low standard for sustainable consular assistance. Where national interests conflict with individual interests of migrant workers, Foreign Service officials may be forced to choose where to direct efforts on a case-by-case basis. This ad hoc approach is problematic on two accounts:

- The media plays an important role in shaping public perception and political opinions about migrant workers. However, sometimes media reports exaggerate or provide misleading information. Certain groups of migrant workers may receive assistance more quickly from diplomats based

⁷ The aforementioned case story of Nepali migrant workers in Qatar by The Guardian is an example.

⁸ See Tupas, Jefry (2013, March 24). The Lessons Singapore Learned From Flor Contemplacion. Retrieved from <http://newsdesk.asia/18-years-ago-the-lessons-singapore-learned-from-flor-contemplacion/>

⁹ See Koser, K. (2012, March 22). Migration, Displacement and the Arab Spring: Lessons to Learn. Brookings. Retrieved from <http://www.brookings.edu/research/opinions/2012/03/22-arab-spring-migration-koser>.

¹⁰ See Hallenbeck, T. (2013, July 16). Immigrant activist Danilo Lopez gets to stay. Burlington Free Press. Retrieved from http://www.burlingtonfreepress.com/article/20130716/NEWS03/307160014?nclink_check=1.

¹¹ See Okano-Heijmans M. (2010). Change in Consular Assistance and the Emergence of Consular Diplomacy. Netherlands Institute of International Relations 'Clingendael'. The Hague: Netherlands Institute of International Relations 'Clingendael'.

on skewed media reporting; however, responses are ad hoc and based on short-term needs.

- Disruption of diplomats' time for consular services takes away from their main function of diplomacy—i.e., representing their state in interactions with the host government—which can compromise the achievement of broader political goals. For example, if a diplomat is busy attending to an urgent consular concern, s/he may be unavailable for higher-level meetings on migration governance or other political concerns that could be important opportunities to advance the rights and welfare of their nationals in the host country¹².

Labour attachés posted to foreign missions

Some states have taken progressive steps to provide assistance to migrant workers abroad by improving institutional capacity within their missions. Top labour sending states such as India, Nepal,

the Philippines, and Sri Lanka have assigned labour attachés, labour welfare officers, or welfare officers¹³ to their missions in select destination countries. This specialist designation varies from country to country, but the purpose of the role is the same: to ensure the welfare of migrant workers in the receiving state by carrying out duties related to labour relations, under the guidance of the Head of Mission (as prescribed in Articles 7 to 11 of the VCDR).

Members of MFA have communicated the positive impact and importance of Labour Sections and/or dedicated labour attachés within missions. Since labour attachés are trained in labour rights, and are often staff of the country's Ministry of Labour, they are more attuned to the sensitive nature of abuses and exploitation that migrant workers experience.

In missions with a dedicated labour attaché, s/he is the focal person for migrant workers' complaints concerning their

employment. Thus, for migrant workers reporting human rights violations in the workplace or wishing to repatriate, labour attachés have been instrumental in facilitating remedies to these requests. The International Labour Organisation (ILO) specifies specific tasks for labour attachés to ensure migrant workers' protection and welfare assistance. Despite the design of labour attaché positions, migrant workers struggle to access guaranteed protections due to the limitations imposed on the labour attaché's role in the receiving state.

- In many instances, labour attachés are not posted to the missions and work out of a separate office. This physical working arrangement promotes separate functioning and diminishes support for labour attachés by diplomatic officials and consular staff at the mission. Leaving labour attachés outside of the mission structure also poses a problem for migrant workers. Where labour attachés do not fall under the mandate of missions to protect nationals abroad, there may be a lack of cohesive effort and enforcement of redress mechanisms for migrant workers.

- If financial and human resources are constrained in missions, countries of origin may not have the funds to employ labour attachés. For instance, there is one labour and community welfare attaché in Bahrain to serve 400,000 Indian nationals, compared to one labour attaché for 38,407 Filipino migrants in Malaysia¹⁴, compared to one labour attaché for 38,407 Filipino migrants in Malaysia¹⁵.

Due to the high migrant workers to labour attaché ratio in receiving states, labour attachés are often overworked and are often put in a compromising position; they are forced to prioritize responses to the overwhelming flow of migrant workers' requests, which results in some cases receiving less attention than may be warranted.

¹² *Idem*

¹³ All will be simply referred to as "labour attachés".

¹⁴ RTI data retrieved from the Ministry of Overseas Indian Affairs, 2012

¹⁵ See POEA (2012). 2008-2012 Overseas Employment Statistics. Retrieved from http://www.poea.gov.ph/stats/2012_stats.pdf

RECOMMENDATIONS

To identify key areas for government policy development, improved implementation, and systematized oversight, governments must:

- Ratify and implement all international human rights and labour rights treaties, and incorporate their provisions into their national laws.
- Adopt an explicit mandate that requires embassies to assist nationals who have experienced rights violations. Specific guidelines must be provided detailing the scope of assistance to be provided in line with the Vienna Conventions.
- Provide robust and on-going training to embassy staff and officials, to ensure they understand the legal obligations and commitments at the international and national levels governing migration in their own country and country of destination.
- Ensure that missions provide free competent legal advice from locally retained law firms to low-wage migrant workers with regard to employment and criminal matters.
- Ensure that standardized and transparent policies governing embassy responses are in place. In order to avoid what may seem as ad hoc consular diplomacy, embassy officials must systemically review all cases regardless of the migrant's legal status, and propose remedies that adhere to human rights standards. Responses should focus on long-term solutions and address root causes.
- Ensure that Ministries of Foreign Affairs maintain records regarding the number and types of complaints received at missions, the length of time taken to resolve cases, and the outcomes of the cases. All data should be made publically available to ensure transparency and accountability in foreign mission functions.
- Develop policy that ensures undocumented migrants, or those without possession of their passports, receive proper assistance without delay. Support in retrieving their documentation must also be provided in order to properly file a complaint either in the destination country or upon their return.
- Adopt mechanisms to review and respond to all complaints raised concerning missions and consular handling of cases and requests for information.
- Develop policy that ensures undocumented migrants, or those without possession of their passports, receive proper assistance without delay.
- Adopt mechanisms to review and respond to all complaints raised concerning missions and consular handling of cases and requests for information.
- Allocate adequate funding to properly sustain human resources for the provision of legal aid, psychosocial support, and healthcare services for migrant workers.
- Ensure that missions have standards that allow for the critical review and assessment of partnering recruitment agents and commercial employers hiring their nationals.

To implement an integrated approach to consular assistance inclusive of all stakeholders, governments must:

- Actively engage in regular dialogues with migrant communities to identify and meet the needs of migrant workers and their families.
- Build and maintain strong relationships and cooperation with civil society organizations working on the ground, as well as legal support groups in countries of destination and origin to ensure migrants' better access to justice.
- Initiate regular meetings with destination country governments, bi-lateral agreement joint committees, other foreign missions, civil society organizations, trade unions, and national human rights commissions to discuss ways to guarantee migrants' rights.
- Ensure regular bilateral relations meetings that are taking place between the foreign missions and the destination country government contributes to negotiations for the inclusion of rights and protections for migrant workers.
- Work within inter-governmental regional platforms, such as SAARC and ASEAN, as well as inter-governmental regional processes such as the Abu Dhabi Dialogue and Colombo Process, to develop regional rights-based and protection-oriented standards.
- Host regular cultural events and celebrations for migrant workers that integrate rights-based programming.

RECOMMENDATIONS

- Collaborate with other foreign missions to advocate for the implementation of and respect for labour rights standards in host countries.

- Ensure migrant workers are provided with the mission's contact information and are informed of the services available to them.

To build and sustain capacity for improved responses to migrant workers' rights issues, governments must:

- Instruct diplomats to focus their attention on diplomatic interventions aimed at ensuring migrant workers' long-term interests, and instruct labour attachés and diplomatic officers to focus on direct and immediate assistance.

- Provide adequate training for mission staff in gender, social, and cultural sensitivity, labour laws, and migrant workers' rights prior to deployment. Continued support for such capacity building must also be provided.

- Post labour attachés to the same office as diplomatic officials and consular staff to promote support between embassy branches and more cohesive efforts to secure redress for migrant workers.

- Assign an appropriate ratio of labour attachés to migrant workers in countries of destination.

- Ensure there is a female labour attaché in countries where female migrant workers are employed.

- Provide adequate shelter and accommodation for migrant workers who leave their worksites due to abuse and to those who are seeking and awaiting legal redress.

- Ensure that missions conduct regular visits to the detention centres to monitor the status of nationals who have been detained.

- Conduct regular field visits to labour camps to monitor the living and working conditions of migrant workers.

To improve information dissemination and data collection, governments must:

- Improve the process of data collection on migration in both origin and destination countries.

- Facilitate regular dialogue among the missions of origin countries and limit gaps in communications by promoting the sharing of data, information, and best practices to identify solutions to common problems faced by migrant workers.

- Maintain a publically accessible database regarding the rights and responsibilities of migrant workers, employer institutions, and recruitment agencies operating in the country.

- Maintain a publically accessible database that tracks complaints filed against employers, recruiters, and agents, as well as those blacklisted. Institutionalize regular information updates in a transparent and comprehensive manner.

- Increase visibility and awareness of services provided by missions and consulates for migrant workers at the local level in destination countries.

- Ensure that missions are easily accessible to migrant workers, especially those living outside the capital. Access to 24/7 hotlines or online services must be available and programs and services must be established to allow consular staff to travel to shelters in various parts of the country.

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RECRUITMENT reFORM.org

RecruitmentReform.org is an initiative of the civil society Open Working Group on Labour Migration and Recruitment. With members from civil society organizations across the world, the Open Working Group is committed to knowledge sharing and collective advocacy to reform migrant labour recruitment practices globally. Building upon years of civil society advocacy on labour migration, human rights, and recruitment reform, the Open Working Group was initiated in May 2014 by Migrant Forum in Asia and the Global Coalition on Migration (GCM) together with other civil society organizations. The Working Group is coordinated by Migrant Forum in Asia and forms part of the Migration and Development Civil Society Network (MADE).

If you are interested in joining the Open Working Group on Labour Migration & Recruitment, please email us at mfa@mfasia.org to express your interest. Please check recruitmentreform.org/contribute-to-the-open-working-group/ to see how members can contribute to the working group!



Step It Up: Dignity, Rights, Development is the global campaign launched by the Migrant Forum in Asia network and affiliated civil society organizations, trade unions, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, and the International Labour Organization, which highlights the significance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW / UN Migrant Workers Convention). 18 December 2015 marks the 25th anniversary of the adoption of the Convention that specifically guarantees the rights of all migrant workers and members of their families.

The 25th anniversary of the UN Migrant Workers Convention is the perfect occasion for the migrants' rights movement to magnify the unwavering advocacy for further ratification and implementation of this international human rights instrument, which looks after the human rights and labor rights of migrant workers and extends protection to members of their families. Launched on 18 December 2014, the Step It Up campaign encourages all stakeholders – States parties, trade unions, employers' organizations, civil society organizations, migrant workers and members of their families to take part in this year long global initiative, beginning on 18 December 2014 to 18 December 2015. Activities relating to the promotion of the human rights of migrant workers and members of their families as well as engagements with States to ratify the CMW will find space here, in the online platform of the Step It Up campaign.

The online platform of the Step It Up campaign centers on the following themes: promotion of the ratification of the UN Migrant Workers Convention, children of migrant workers, particularly ending immigration detention of children, migrant domestic workers, contributions of migrant workers in the countries of origin and destination, and situations of forced labor, human trafficking and slavery-like practices that migrant workers experience. The campaign also links up with other ratification efforts, including the ILO Convention on Domestic Work No. 189 (C189), ILO Convention No. 97 (Migration for Employment Convention), ILO Convention No. 143 (Migrant Workers Convention) and the ILO Forced Labour Protocol. These themes and the ratification of international human rights and labor rights treaties directly impact the lives and the realization of the rights of all migrant workers and members of their families. The Step It Up campaign through the online platform strives to weave together these interrelated issues and underscores that migration is not an isolated matter but is tied to various dimensions of peoples' struggles for equality, dignity, decent work and human rights.

To know more about the campaign, please visit <http://cmw25.org>

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