



International  
Labour  
Organization

---

# POLICY BRIEF

## *on* PRACTICES AND REGULATION OF RECRUITMENT TO DOMESTIC WORK

---



There is a growing interest among policymakers and practitioners in improving recruitment practices and regulations to reduce vulnerability to human trafficking and forced labour among girls and women migrants in the domestic work sector. This document maps common recruitment practices and regulations observed along recruitment pathways to domestic work in India, Bangladesh, Nepal, Jordan and Lebanon. Examples from other regions are also highlighted. Given the complexity of cross jurisdictional and multi-tier recruitment practices and regulations, this brief presents common practices and regulations, pointing to where and how they can constitute better practices. The mapping and analysis are based on research and lessons learned from the ILO's Work in Freedom Programme recruitment pilots within South Asia or from South Asia to the Middle East. There are two sections to this brief, first – describing common recruitment practices and regulations and second – giving examples of better recruitment practices and corresponding regulations.

# COMMON PRACTICES AND REGULATIONS OF RECRUITMENT PATHWAYS TO DOMESTIC WORK

| COMMON RECRUITMENT PRACTICES  | COMMON RECRUITMENT REGULATION <sup>1</sup>  |
|---|---|
| <i>informal or direct mediation</i>   | <i>restricting worker's movement</i>  |
| <p>1. Recruitment through personal connections to live-out domestic work</p> <p><b>Example:</b> Local self-employment, often involves experienced workers who can negotiate better working terms with employers.</p> <p><b>Vulnerability:</b> In contexts where sponsorship is practiced, workers who are unable to retrieve their personal documentation from previous employers may become undocumented and vulnerable to arrest, long periods of detention and deportation. Further, in contexts where workers rely on diaspora networks to find employment, they can also fall prey to profiteers who tap into these networks and disseminate false information<sup>2</sup> across the network.<sup>3</sup></p> | <p>1. Migration bans and mobility restrictions</p> <p><b>Example:</b> (a) Migration bans for women migrants in country of origin (e.g. ECR<sup>4</sup> requirement in India), or countries of destination choosing not to issue permits to some nationalities, (b) Migrant interception through anti-trafficking laws in countries of origin, and (c) Mobility restrictions such as those resulting from sponsorship systems.</p> <p><b>Challenge:</b> Migration bans are discriminatory by gender, age, family status, education, occupation or nationality. If both compulsion to migrate and demand for migrants is high, migrants find more risky circuitous routes often requiring additional informal intermediation. This makes bans ineffective.</p> <p>At destination sponsorship systems (e.g. the <i>Kafala</i> system) strengthen power asymmetries of employers over workers and thus create structural vulnerability to forced labour. There is retention of identity documents which is an indicator of forced labour.</p> |
| <p>2. Recruitment through personal connections to live-in domestic work</p> <p><b>Example:</b> Kinship connections or church networks (e.g. Jharkhand to Mumbai / National Capital Region)</p> <p><b>Vulnerability:</b> Limited effectiveness of legal framework in upholding the worker's rights.</p>  | <p><i>prohibition of informal intermediaries</i></p> <p>2. Prohibition or criminalization of recruitment intermediaries in countries of origin</p> <p><b>Example:</b> India's Emigration Act, 1983, Placement agency regulation (Chhattisgarh), many anti-trafficking laws</p> <p><b>Challenge:</b> If both labour supply and demand is high, employers and workers tend to rely on informal intermediation and recruitment fees may increase.</p>  |
| <i>multiple intermediation</i>  | <i>organisational accountability of intermediaries</i>  |
| <p>3. Recruitment through a mix of private recruitment agencies and informal intermediaries</p> <p><b>Example:</b> In 2016, a mix of local sub-agents and official agencies in both Nepal and Lebanon facilitated the migration of Nepalese women for domestic work in Lebanon.</p> <p><b>Vulnerability:</b> The segmentation and multiplicity of economic actors and regulations diffuses the responsibility and accountability for ensuring a safe migration and decent work outcome for workers at destination. Vulnerability is compounded by mobility restrictions enforced by countries of origin (such as age ban) and destination (such as <i>Kafala</i>).</p>  | <p>3. Registration of labour recruiters and regulation of responsibilities</p> <p><b>Example:</b> Common practice in both countries of origin (e.g. Bangladesh) and destination (e.g. Jordan).</p> <p><b>Challenge:</b> It is difficult to identify all actors involved in a recruitment process across countries. Local intermediaries are usually excluded.</p>   |
|   | <i>provisions for public management of recruitment</i>  |
|   | <p>4. Regulatory provisions for recruitment through public enterprises</p> <p><b>Example:</b> India's 2016 list of authorized public labour recruiters, Kuwait's Public Sharing Company, 2016</p> <p><b>Challenge:</b> In practice, public offices prefer to avoid liability of recruiting into risk sectors where working conditions are likely to be poor.</p>  |

1 These common regulatory practices do not constitute good practices and are not listed as a way of recommending them. They illustrate what common practices are so that improvements can be suggested in the following table of better practices.

2 ILO. 2014. Country profile on migrant domestic workers in Paraguay (Geneva, unpublished).

3 Monitoring mechanisms focus on workers who are recruited via formal agencies, not those who are under individual contracts

4 Exit Clearance Required (ECR) provision as per India's Emigrant Act 1983

5 The regulation on the Kuwait's Public Sharing Company, 2016 is yet to be enforced.

| COMMON RECRUITMENT PRACTICES   | COMMON RECRUITMENT REGULATION  |
|--|--|
| <p><i>intermediation by formal private actors<sup>6</sup></i></p> <p>4. <b>Recruitment through private recruitment agency or contractor to live-in domestic work</b><br/> <b>Example:</b> Bangladesh to Jordan<br/> <b>Vulnerability:</b> The practice of advancing incentive payments or wages (e.g. Sri Lanka<sup>7</sup>), or migrants seeking loans. The possibility of bondage and poor working and living conditions. Over dependency on recruiters (e.g. labour hoarding) and employer. Higher recruitment costs are passed on to workers in the form of withheld wages.</p> <p>5. <b>Recruitment through private web-portals</b><br/> <b>Example:</b> Babajob.com; Naukri.com in Mumbai<br/> <b>Vulnerability:</b> Job aggregators are job matching portals. While they increase the transparency of recruitment-related payments etc. (potentially supporting zero worker-paid recruitment costs) they do not take responsibility for decent work outcomes.</p> | <p><i>formal private actors with safeguards for workers</i></p> <p>5. <b>Bilateral agreements or MOUs for private recruitment</b><br/> <b>Example:</b> Memoranda of Understanding (MOU) between countries of origin and destination.<br/> <b>Challenge:</b> Most MOUs tend to favour labour recruiters and employers in countries of destination and foreign employment concerns in countries of origin, with limited guarantees for workers.</p> <p>6. <b>Ranking of private recruitment agencies</b><br/> <b>Example:</b> Jordan's system to rank labour recruiters.<br/> <b>Challenge:</b> Criteria for ranking of labour recruiters tends to exclude worker's views and decent work outcomes. Given the segmentation and dilution of recruitment responsibilities across jurisdictions, ranking criteria tend to be partial.</p> <p>7. <b>Curbing recruitment fees</b><br/> <b>Example:</b> Nepal's free visa-free ticket policy<br/> <b>Challenge:</b> Foreign employment procedures can be complex and bureaucratic, and migrants often require some level of informal intermediation that formal intermediation cannot provide.</p> |
| <p><i>indirect practices affecting recruitment</i></p> <ul style="list-style-type: none"> <li>• <b>In areas of origin:</b> Policies affecting availability or absence of sustainable local livelihoods options and human security.</li> <li>• <b>In areas of destination:</b> (a) Demand for care and housework in countries or states of destination; (b) Recruitment of local workers at higher wages versus recruitment of distress migrants at lower wages.</li> <li>• <b>Throughout migration cycle:</b> (a) Effective practices of inclusion, affirmative action and non-discrimination versus structural and direct forms of discrimination against those who migrate prior, during and after migration; (b) Cartelization or not of labour recruitment networks.</li> </ul>  | <p><i>indirect policies affecting recruitment</i></p> <ul style="list-style-type: none"> <li>• <b>In areas of origin:</b> Labour supply policies securing sustainable livelihoods versus those prompting distress migration (e.g. divestment from basic services, expropriations or other land use policies causing displacement, etc.).</li> <li>• <b>In areas of destination:</b> Public investments in professional care affecting demand for domestic workers. Other public sponsorship of investment in better employment options for women.</li> <li>• <b>Throughout migration cycle:</b> (a) MOUs regulating migration exist in States / Countries; (b) The number, affordability and regulatory laxness of other available labour markets; (c) Open border policies and regional free mobility regimes.</li> </ul>   |

<sup>6</sup> Private Recruitment and Employment Agencies. See ILO Convention 181.

<sup>7</sup> For example advance payments which can amount to an average 500 USD in Sri Lanka give false hope to the worker of higher wages at destination. Employers, who think the worker has received a lot more than 500 USD in advance payments, expect her to reimburse the recruitment costs (up to 5,000 USD in the GCC) prior to releasing her to another employer or to even releasing her personal documents.



# EXAMPLES OF BETTER PRACTICES AND REGULATION OF RECRUITMENT TO DOMESTIC WORK

| BETTER PRACTICE   | BETTER REGULATION   |
|---|---|
| <i>avoiding institutionalisation of recruitment into poor working and living conditions</i>   |   |
| <p>1. Support multiple recruitment practices favouring empowerment of workers</p> <p><b>Example:</b> Recruitment practices where workers are accurately informed about the realities of working and living conditions and given tools to negotiate better working conditions. See examples below.</p> <p><b>Challenge:</b> Dominant market players often seek to expand their practices and crowd out alternative recruitment options especially public or informal ones.</p>   | <p>1. Focus on regulating for better working and living conditions, while allowing multiple practices of recruitment favouring empowerment of workers</p> <p><b>Example:</b> In contexts where working conditions are poor, a regulatory environment of recruitment is needed that supports workers' position to demand better working and living conditions.</p> <p><b>Challenge:</b> Pressure on regulators to promote the interests of recruitment cartels can result in regulatory "straitjackets" that force recruitment into poor working conditions for the sake of profitability<sup>8</sup>.</p> |
| <i>building social capital of workers through recruitment practices</i>   |   |
| <p>2. Recruitment through negotiation between worker collectives and employers</p> <p><b>Example:</b> SEWA<sup>9</sup> in Bihar, JGKU<sup>10</sup> in Jharkhand, Solidarity Centres' Protect initiative in Sri Lanka<sup>11</sup>, Si Se Pudedel in New York<sup>12</sup>.</p> <p><b>Challenge:</b> Unequal power relations between domestic workers and employers undermines efforts of domestic workers to negotiate as a collective. In some countries restrictions apply on freedom of association and collective bargaining.</p> | <p>2. Enable freedom of association and collective bargaining to negotiate recruitment into decent working conditions</p> <p><b>Example:</b> Legal measures allowing migrant and non-migrant care workers to associate and bargain collectively; Legal provisions enabling migrant domestic workers to be members of cooperatives.</p> <p><b>Challenge:</b> Prevalence of discriminatory attitudes towards domestic workers.</p>  |
| <p>3. Recruitment imparting migrant worker with accurate information on working conditions and capacity to negotiate</p> <p><b>Example:</b> Pre-migration or post arrival training by migrant worker collectives or trade unions.</p> <p><b>Challenge:</b> This may undermine the business practices of some PREAs<sup>13</sup> who may seek to oppose this.</p>  | <p>3. Remove restrictions on worker's mobility and making regulation accountable to workers</p> <p><b>Example:</b> Removal of: (1) migration bans, (2) migrant interception in anti-trafficking policies, (3) labour hoarding and sponsorship practices.</p> <p><b>Challenge:</b> Tendency for policies to be influenced by patriarchal views claiming that mobility restrictions protect workers.</p>  |
| <i>building public accountability in recruitment practices</i>  |   |
| <p>4. Recruitment regulated by tripartite institutions</p> <p><b>Examples:</b> Recruitment through sector wide mechanisms agreed by tripartite parties (e.g. recruitment of Mathadi workers, Maharashtra); Bahrain's Labour Market Regulatory Authority.</p> <p><b>Challenge:</b> Requires strong social dialogue between tripartite constituents and other stakeholders.</p>   | <p>4. Regulation through institutionalization of tripartite or public recruitment mechanisms</p> <p><b>Example:</b> Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969; Regulated voucher systems in Belgium, France for part time domestic work.</p> <p><b>Challenge:</b> Requires strong commitment of Government and other constituents.</p>   |

8 Institutionalized human trafficking is an important risk of recruitment practices and regulation, especially when working conditions are generally poor.

9 Self Employed Women's Association (SEWA)

10 Jharkhand Gharelu Kamgar Union

11 The Solidarity Centre initiative with Protect, a newly formed umbrella organization of unions, uses information technology as a tool for organizing and networking workers, particularly domestic workers.

12 Si se pudedel, a women cleaners cooperative in New York City.

| BETTER PRACTICE  | BETTER REGULATION   |
|--|---|
| <i>building public accountability in recruitment practices</i>   |   |
| <p>5. Practices whereby worker-employer relationship are negotiated under public scrutiny throughout the migration cycle</p> <p><b>Example:</b> Monitored interviews, contract negotiation and follow up; Monitoring of recruitment by trade unions (e.g. SENTRO<sup>14</sup>, or trip advisor feedback through trade unions), black-listing of employers and sharing information with labour attaches (example. Philippines).</p> <p><b>Challenge:</b> Requires strong capacity of embassies and migrant protection measures.</p> | <p>5. Legal provisions enabling public officials or trade unions from states and countries of origin to monitor worker-employer relationships</p> <p><b>Example:</b> Regulations allowing monitoring of pre-employment interviews and systems to prevent contract substitution through labour attaches and collaboration with trade unions and civil groups.</p> <p><b>Challenge:</b> Requires strong capacity of embassies and commitment to migrant protections.</p>  |
|  | <p>6. Establishing transparent processes to negotiate and monitor bilateral agreements, standard contracts and referral wages</p> <p><b>Example:</b> Tripartite and migrant right group consultations on bilateral agreements.</p> <p><b>Challenge:</b> Strong political commitment necessary to check against undue influence of labour recruiters over recruitment processes.</p>   |
| <i>building organisational accountability in recruitment practices</i>   |   |
| <p>6. Labour recruiters complying with fair recruitment standards and recruiting only for employers who guarantee decent working conditions</p> <p><b>Examples:</b> Agencies adhering to and implementing a code of conduct ensuring fair recruitment, itemizing recruitment costs.</p> <p><b>Challenge:</b> All labour recruiters tend to claim that they recruit fairly and to good employers. However, market incentives encourage labour recruiters to lower their standards and pay lip service to commitments.</p>           | <p>7. Regulation of labour recruiters and employers through joint and several liability provisions and other regulatory incentives</p> <p><b>Example:</b> Joint and several liability provisions holding both employers and multiple recruiters accountable (e.g. Bangladesh's Overseas Employment and Migrant Act, 2013<sup>15</sup>). Requirements to itemize recruitment costs. This can be accompanied by regulatory incentives (e.g. public rewarding) based on inspections and consultation with domestic worker collectives, trade unions and embassy staff.</p> <p><b>Challenge:</b> Difficulty to enforce because of the jurisdictional boundaries and weak capacity to implement labour inspection.</p> |
| <p>7. Recruitment through skilling service providers</p> <p><b>Example:</b> Life skill training in training programmes offered by skill service providers, preferably in association with returnee domestic workers, migrant right organizations and trade unions.</p> <p><b>Challenge:</b> Skill service providers tend to focus on the skilling needs of employers. There may be scenarios where workers already possess the skills that are being taught. In such cases, skill certification is recommended.</p>                | <p>8. Regulations requiring that skilling service providers provide life skill training and enable certification of existing skills</p> <p><b>Example:</b> Making it a procedural requirement that certification of existing skills is an option prior to training, and that life skill training is included in public funded programmes. Making provisions for trade unions to implement programmes or to monitor them.</p> <p><b>Challenge:</b> Skilling service providers operate under market incentives to ensure placement of workers regardless, of working conditions.</p>  |
| <i>better indirect regulation</i>  |   |
| <ul style="list-style-type: none"> <li>• Policies reducing distress migration in areas of origin</li> <li>• Policies generating decent working opportunities in areas of destination especially in the care economy</li> </ul>   |   |

13 Private Recruitment and Employment Agencies as per ILO Convention 181.

14 In 2013 SENTRO in the Philippines and the Progressive Labour Union of Domestic Workers in Hong Kong submitted a joint report "License to Exploit" to the Philippines Overseas Employment Administration based on their monitoring of recruitment activities. This enabled the revocation of faulty agencies. More recently, in October 2016, the Hong Kong Federation of Asian Domestic Workers Unions (FADWU) launched a report and a short film titled "Between a rock and a hard place." The report documented the activities of employment agencies in Hong Kong and its findings have informed a number of meetings between FADWU and the legislative council of Hong Kong SAR. As a result, Hong Kong has introduced a new code of practice to regulate employment agencies in January 2017.

15 According to the Act: "For the purpose of the employment contract, the recruitment agent shall be deemed to be a representative of the overseas employer, and as regards liabilities arising from the contract, the said recruitment agent and the employer shall be liable jointly and severally."

NOTES

Handwriting practice lines consisting of 20 horizontal dotted lines.

NOTES

Handwriting practice lines consisting of 20 horizontal dotted lines.

## RESOURCES

[Convention No. 189 on Domestic Workers](#), International Labour Organization, 2011

[General Principles and Operational Guidelines for Fair Recruitment](#), International Labour Organization, 2016

[Operational parameters to assess fair recruitment](#), International Labour Organization, 2016

[Convention No. 181 on Private Recruitment and Employment](#), International Labour Organization, 1997

[Convention No. 177 on Home Work](#), International Labour Organization, 1996

[Fair Recruitment Initiative](#), International Labour Organization, 2014

[Code of Conduct for recruitment agencies](#), World Employment (WEC formerly known as CIETT), 2011

[Recruitment Reform.org](#) and [Open Working Group on Labour Migration and Recruitment](#), Policy Briefs 1-5, Migrant Forum Asia (MFA)

[Dhaka Principles for Migration with Dignity](#), 2012 and [Responsible Recruitment Gateway](#), 2016, Institute for Human Rights and Business Fair Hiring Toolkit, Verite, 2011

[International Recruitment Integrity System \(IRIS\)](#), International Organization for Migration, 2013

### Work in Freedom

Work in Freedom is an integrated development cooperation programme aiming to reduce vulnerability to trafficking and forced labour of women migrating to garment and domestic work. The programme works along migration pathways in India, Nepal, Bangladesh, Jordan and Lebanon. Interventions focus on promoting mobility by choice, fair recruitment to decent jobs and safety and dignity for migrant workers. The ILO Work in Freedom programme is supported by UKaid from the Department for International Development. However, the views expressed in this brief do not necessarily reflect the department's official policies.

### For more information please contact:

**Igor Bosc**, *Chief Technical Advisor*, Work in Freedom, ILO DWT for South Asia and Country Office for India,

Core 4B 3rd Floor, India Habitat Centre, Lodi Road, New Delhi 110 003, India.

**E:** [bosc@ilo.org](mailto:bosc@ilo.org) | **W:** [www.ilo.org/forcedlabour](http://www.ilo.org/forcedlabour)

