



**Recommended Guidelines for
Migrant Recruitment Policy and Practice
in the Greater Mekong Sub-Region**

Preamble

These recommended guidelines emphasise the importance of improving recruitment processes in order to encourage safe migration and reduce the potential vulnerability of migrant workers to labour exploitation, including the worst forms of child labour and human trafficking.

The guidelines address key issues of recruitment in the context of labour migration within the sub-region. They will form the basis for continuing dialogue on migrant recruitment policy and practice and the development of implementing strategies. The guidelines have been developed to cover the key issues associated with recruitment for labour migration, with an emphasis on cross-border migration. The guidelines allow for adaptation in accordance with each country's circumstances.

The recommended guidelines were developed through a consultative process involving tripartite constituents, international agencies and concerned non-government organisations in the Greater Mekong Sub-region. The guidelines build on research projects in each of the countries, existing regional and international instruments and outcomes from national and sub-regional consultations.

1. Guiding principles

- 1.1. The fundamental principles and rights at work of all migrants, regardless of their status, should be promoted and protected.
- 1.2. Migration should be managed in a way that is beneficial to migrant workers, members of migrant workers' families, employers, sending and receiving countries.
- 1.3. Governments, in consultation with employers' and workers' organisations and other concerned groups should establish comprehensive, consistent and transparent policies and laws on labour migration and recruitment to facilitate efficient and responsible migration that enables suitable workers, men and women, to migrate to perform decent work.
- 1.4. Formal recruitment and procedures in sending and receiving countries should be transparent, accessible, efficient and affordable, so that it is the most attractive option for migrant workers and employers.

- 1.5. Recruitment policies should be based on periodic, objective labour market analyses using data that is disaggregated according to gender and age, and consultation between government, workers' and employers' organisations and other concerned groups.

2. Pre-departure procedures & services

- 2.1. Governments of sending and receiving countries should standardise procedures and streamline the migration process to minimise the delays and costs associated with formal recruitment such as issuing passports, visas, working permits and health certificates.
- 2.2. Recruitment agencies should obtain all information about the job (responsibilities and obligations included in the labour contract, working conditions, net-wages, insurance, living conditions, working hours, sick leave and annual leave conditions, overtime payment, compensations etc.) from employers and receiving country governments, before advertising the positions.
- 2.3. Recruitment agencies should seek to match workers' skills to employers' needs and should place workers in a timely manner.
- 2.4. Recruitment agencies should ensure that selected workers are informed in their own language and clearly understand and freely accept the terms and conditions of employment.
 - 2.4.1. Workers should be provided with copies of all relevant employment and recruitment contracts.
- 2.5. Sending and receiving governments should work with recruitment agencies, employers' organisations, workers' organisations, international organisations and non-government organisations to develop a core curriculum for pre-departure training.
 - 2.5.1. Pre-departure training should cover terms and conditions of employment, rights, workers' obligations and protections (including salary deductions), the importance of retaining their identity documents and copies of their contracts, language, culture, effective and reliable remittance channels, key contacts, preventative and emergency health measures, complaint mechanisms and relevant laws for working and living in the receiving country.
- 2.6. Pre-departure training should be mandatory, accessible and affordable and governments should monitor recruitment agencies to ensure that it is carried out and is of a high quality.
- 2.7. Governments should publish materials in migrant languages that are appropriate for migrant workers' education levels about the rights and obligations and who migrant workers can contact in the sending and receiving countries for assistance.
- 2.8. Governments should provide support that is gender and age-sensitive for migrant workers by all appropriate means (eg by having labour attaches or resource centres in receiving countries).

3. Regulation of recruitment agencies

- 3.1. Governments in receiving and sending countries should manage labour migration and license and supervise recruitment agencies and their sub-contractors in a transparent and accountable manner and in accordance with international labour standards (eg the ILO Convention 181).
- 3.2. Sending and receiving governments should provide guidance and services to all migrants seeking to undertake legal employment abroad, including information on available migration options, such as government-to-government arrangements.
- 3.3. Recruitment agencies should be held fully accountable for the activities of their recruiting agents and subcontractors.
- 3.4. Governments should regularly monitor the activities of recruitment agencies.
 - 3.4.1. With due respect for protecting personal information, recruitment agencies and governments in sending and receiving countries (including embassies and consulates) should work together to collect information about workers and employers and make it available for the purposes of government monitoring.
 - 3.4.2. Governments should work with local authorities to ensure that monitoring occurs at the local level.
 - 3.4.3. Governments should work with concerned organisations to establish assessment and monitoring systems of recruitment agencies.
- 3.5. Recruitment agencies should be held liable for recruiting workers for jobs involving undue hazards, risks, abuse or discrimination and for recruiting underage workers. Decent working conditions should be promoted even in areas of work that are inherently hazardous.
- 3.6. Penalties for recruitment agencies that breach the law (for example misrepresentation, deception, charging excessive fees) should include suspension or licence cancellation and liability for contract violations.
- 3.7. Governments should establish grievance procedures for workers to lodge complaints about recruitment agencies.
- 3.8. Governments should consider establishing a system of protection, such as insurance, bond or deposit, to be paid by the recruitment agencies, to compensate migrant workers for any monetary losses resulting from the failure of recruitment agencies (or their subcontractors) to meet their obligations to workers.
- 3.9. Where applicable, governments should establish a contingency fund or surety fund to be used for repatriation, insurance, medical care, return and reintegration activities and pensions for migrant workers as necessary.
- 3.10. Governments should encourage good practice and promote fair competition by recruitment agencies, such as through the granting of awards.

3.11. Recruitment agencies should adopt voluntary codes of practice.

3.11.1. The codes of practice should include public awareness strategies, monitoring mechanisms and sanctions for non-compliance.

4. Fees for recruitment services

4.1. Governments and recruitment agencies should try to minimise the costs of recruiting and hiring migrants that must be borne by workers and employers.

4.2. Fees for recruitment services should be borne by employers. Where this is not possible, governments should regulate the maximum fee for services that recruitment agencies are allowed to charge workers in consultation with employers' and workers' organisations.

4.3. Recruitment agencies should disclose all charges and terms of business to employers and workers, ensuring transparency about the costs (eg costs associated with documentation, etc) and the recruitment service fees.

4.4. Governments should regulate and monitor the way in which recruitment agencies are able to deduct fees from workers' salaries.

4.5. Employers and recruitment agencies must obtain written consent from workers on the deductions from their salaries and ensure that workers have full access to their savings accounts at all times.

4.6. Employers or recruitment agencies who manage salary deductions from workers should be required to issue written statements to workers about their gross salary and all deductions.

4.7. Governments should promote the establishment by governments, financial institutions or other organisations of lending facilities to provide low interest loans to workers who cannot afford recruitment agency fees.

5. Working conditions & rights

5.1. Sending and receiving governments should enact comprehensive legislation against exploitative labour practices, including human trafficking, forced labour and the worst forms of child labour.

5.1.1. When drafting national legislation, governments should refer to international and regional standards, particularly those to which they are party (as listed in Annex 1).

5.2. Sending and receiving governments should implement bilateral and multilateral agreements on the protection of migrant workers, including the provision of standardised employment contracts.

- 5.3. Governments should set minimum standards for employment contracts for migrants and nationals, taking account of the special needs of the most vulnerable groups and those working in unregulated sectors.
 - 5.3.1. Employment contracts should reflect the minimum standards for age, wage and working conditions, procedures for termination of contracts and change of employment, reporting obligations, complaint mechanisms and avenues for redress.
- 5.4. Governments should work together to monitor working conditions in receiving countries and to enforce legal obligations. Where relevant, this should be done in accordance with existing bilateral and multilateral agreements.
 - 5.4.1. Labour inspections should apply to all workplaces including those with migrant workers to effectively monitor their conditions and supervise compliance with labour contracts.
 - 5.4.2. Recruitment agencies, both in sending and receiving countries, should assist governments to monitor the situation of migrant workers in receiving countries, coordinating as necessary.
- 5.5. Governments, in cooperation with employers and workers organizations, should provide effective complaints mechanisms for migrant workers as well as mechanisms for local labour dispute settlement that also involves, as appropriate, workers' and employers' representatives.
 - 5.5.1. Governments should provide migrant workers who have been subject to exploitation with adequate access to the legal and judicial system of receiving states.
 - 5.5.2. The complaints mechanisms should allow for migrant workers to seek help from officials, interpreters and their own representatives who speak their language. Where appropriate, this should be supported by the role of labour attaches, employment service offices and other intermediaries.
 - 5.5.3. Governments should ensure that migrant workers have access to emergency medical services, either through direct provision of services or through referral mechanisms.
- 5.6. Governments in sending and receiving countries should promote awareness of migrant workers' rights, including providing training on human rights and labour rights, to all government officials and recruitment agencies involved in migration.
- 5.7. Governments, workers' organisations, employers' organisations and recruitment agencies in both sending and receiving countries should share information and cooperate to combat trafficking for labour exploitation.
- 5.8. Governments in sending and receiving countries should encourage social and cultural harmony between migrant workers and host communities.

Annex 1

International and regional instruments on exploitative labour practices and trafficking

The ILO Fundamental Labour Conventions

The ILO Multilateral Framework on Labour Migration

The Private Employment Agencies Convention 181

The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

R198 Employment Relationship Recommendation, 2006

Annex 2

Source Documents

Private Employment Agencies Convention (C 181)

ILO Multilateral Framework on Labour Migration - Non-binding principles and guidelines for a rights-based approach to labour migration

ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

Guide to Private Employment Agencies: Regulation, Monitoring Enforcement

International Confederations of Private Employment Agencies (CIETT) Code of Practice

Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers

National Guidelines for Private Recruitment Agencies in Cambodia

Draft research report, Recruitment of Migrant Workers from Cambodia and Laos into Thailand



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