



International
Labour
Organization



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MIGRATION MANAGEMENT
PROJECT

Labour Migration Governance
and the Ministry of Labour and
Employment



1. Introduction

The Ministry of Labour and Employment is the government agency in charge of influencing labour, employment and social policy. It provides strategic leadership on issues such as job creation in close collaboration with employers' organisations, enterprises, and trade union organizations. It is in charge of formulating and implementing labour migration policies and legislation. The Ministry of Labour and Employment leads and/or coordinates work with the following labour market institutions¹:

- a) Labour Inspection Service;
- b) Labour Market Observatory;
- c) Social Security Institute;
- d) Public Employment Service;
- e) Vocational Training Institute;
- f) Occupational Safety and Health Service;
- g) Working Conditions Service.
- h) Anti-discrimination and Labour Market Integration Agencies;
- i) Freedom of Association and Collective Bargaining Bodies.

In the case of origin, transit or destination countries with an important percentage of migrant workers a specific labour migration unit/department within the Ministry of Labour and Employment can encompass work (e.g. Tunisia, Morocco, South Africa etc.) on ensuring fair and

¹ **Labour market institutions** – Agencies, institutes that are responsible for transforming policies, laws, and regulations in mechanisms and services (Ministry of Labour), or directly delivering services and using mechanisms (public employment services, vocational training institutes, etc.) for ensuring an optimum labour market situation or an enabling environment/outcome for national and migrant workers (e.g. facilitating skills recognition, labour mobility, jobs and skills matching, providing social protection and benefits, equipping workers with the necessary qualifications in demand in the labour market, improving their working conditions, etc.). Given the importance of private employment agencies (PEAs) in the recruitment and placing of national and migrant workers, ILO's work also considers the role they play together with public agencies in realizing these objectives.

effective labour migration governance. It can have the objective of serving as the main entry point to ensure the implementation of gender-sensitive and evidence-based labour migration policies and as the main linkage with the above-mentioned labour market institutions. If Inter-Ministerial Committees on Migration exist, the labour migration unit can also serve as the Ministry of Labour's focal point.

A labour migration unit can include the responsibility of formulating, negotiating and implementing Bilateral labour migration Agreements (BLMAs) in close collaboration with the Ministry of Foreign Affairs, and Home Affairs. A labour migration unit can also be in charge of emitting work permits and supervise emission of work contracts, as well as ensuring the protection of migrant workers through fostering portability of social security benefits, advocating for the ratification and implementation of ILO Conventions (C. 97 and C. 143), as well as through furthering a fair and ethical recruitment of migrant workers by regulating, monitoring, and licencing of private employment agencies and other means. It can also ensure equality of opportunity between migrant workers and national workers by fostering the recognition of skills/qualifications/diplomas of migrant workers, as well as ensuring that labor migration policies take into consideration labour market needs through the improvement of labour migration statistics and the utilization of tools such as labour market/vacancy tests, catalogues of occupations difficult to cover/or skills shortlists, etc.

A labour migration unit should also be in charge of ensuring equal treatment of migrant workers in terms of employment and occupation working with the Labour Inspection Unit in the respect for working conditions (working hours, wages, leave entitlements, occupational safety and health protection, etc) to avoid a "social dumping" or "raise-to-the-bottom approach in national labour markets. A labour migration unit is also in charge of formulating and implementing migration Regularisation/Amnesty Programmes and Temporary Migration Schemes as well as ensuring implementing labour migration policy measures such as family unification and family reunification of migrant workers.

2. Ministries of Labour and Employment in both Countries of Origin and Destination

In both countries of origin and destination, Ministries of Labour and Employment could contribute to improving labor migration governance through the following:

MINISTRIES OF LABOUR IN BOTH- COUNTRIES OF ORIGIN AND DESTINATION

- Ensuring policy coherence between labour migration, employment, and education/training policies (unemployment, underemployment, jobs and skills mismatch, labour surplus or skills shortages in certain economic sectors and occupations, percentage of workers in the formal and informal economy, etc);
- Carrying out labour market needs assessments to determine existing demand for, and supply of migrant workers, or potential migrant workers, through Labour Market Information Systems and/or Labour Market Observatories;
- Facilitating job search, career guidance and job counselling for potential migrant workers, and returnee migrant workers through its Public Employment Service;
- Through employability enhancement (upskilling and reskilling) equipping workers with the necessary qualifications in demand in the national labour market and abroad (e.g. provision of pre-departure information and vocational training for potential migrants, and entrepreneurship training and financial education for potential and returnee migrant workers);
- Protecting the well-being and working conditions of migrant workers by setting a regulatory framework for labour migration (e.g. ensuring that employment contracts conform with International Labour Standards);



- Facilitating access to migrant workers' employment opportunities by negotiating Bilateral Labour Migration Agreements (BLMAs) and regulating the migration of certain skills.
- Regulating private employment agencies (PEAs) through prohibition, registration, licensing, & monitoring);
- Facilitating skills recognition (e.g. recognition of prior learning) and skills certification in collaboration with the Ministry of Education;
- Providing social protection by ensuring access to, and portability of, social security rights and benefits;
- Ensuring respect for workers' working and living conditions (e.g. wages, working time, weekly and annual leave entitlements, and other in-service and end-of-service contract entitlements) through Labour Inspection Services;
- Guiding migrant workers in need of access to justice (non-respect of contract's terms and conditions) to Labour Courts and redress mechanisms;

MINISTRIES OF LABOUR IN COUNTRIES OF DESTINATION

- Establishing Catalogues of occupations difficult to cover/Critical Skills Lists, and quota/ceilings systems based on labour market needs identified through labour market information systems (in straight collaboration with workers and employers' organisations) to accurately determine existing demand and supply and regulate the number of migrant workers per sector and occupation;
- Informing and ensuring compliance with vacancy/labour market tests (in case of labour shortages) through the imposition of fair waiting periods to publicize the vacancy, ensure evidence is provided that the job was offered to national workers, and requiring the employer to raise the salary offered by a certain percentage, if necessary.
- Providing employers' authorizations to hire migrant workers and facilitating administrative procedures for work permits;
- Ensuring that there exists no labour market "social dumping" or "raise-to-the-bottom approach" in terms of wages and other working conditions between national and migrant workers by imposing fees and sanctions, if necessary;
- Organizing a temporary migrant labour scheme to regulate or control the entry of migrant workers into the country, the economic activity in which they may legally engage and, the duration and conditions of their stay or residence.
- Formulate and implement Regularization schemes, if necessary.