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Consolidating Gains

Lessons and Priorities for Promoting Fair and Ethical Recruitment

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Executive Summary

As more people move to other countries in search of work, increased attention has been paid to how prospective migrants connect with foreign employers and what recruitment and employment conditions they encounter along the way.[1] Events such as the COVID-19 pandemic and the 2022 World Cup in Qatar, for example, shone a bright light on the risks migrant workers can face, the complex web of intermediaries that often play a role in connecting employers and prospective workers, and the ongoing need for better regulation of recruitment and better protections for workers.

Over the last decade and a half, the international community has made remarkable progress in developing and promoting common standards on fair and ethical recruitment. This work has included establishing a common definition of recruitment fees and related costs, promoting the idea that workers should not bear responsibility for these costs, and creating clear guidelines for improving the regulation of international recruitment. More recently, the focus has shifted toward improving the overall ecosystem for recruitment, tying together investments in regulation with efforts to improve due diligence across supply chains and provide migrant workers with access to remedy, including the repayment of withheld wages.

The challenge ahead lies in translating norms and standards into practice. Many migrant workers still pay exorbitant recruitment costs or face other practices (such as lack of a formal contract or limited access to remedy) that leave them in debt before they even migrate and consequently at risk of exploitation during the recruitment process or their employment. This raises questions about what can be done to boost the impact of fair and ethical recruitment standards on the lives of migrant workers as more people seek out opportunities abroad.

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To date, efforts to promote fair and ethical recruitment have fallen into a few categories. One major focus of these initiatives is working with governments to develop clear policies for recruiters and employers. Many countries have introduced recruitment laws or regulations, although their quality and scope varies widely—as does their approach to issues such as regulating private recruitment agencies or sharing responsibility for recruitment costs among workers and employers. This progress at the national level

has been accompanied by growing engagement by governments on recruitment at the regional and multilateral levels that could lay the groundwork for further coordination down the road. But more work is urgently needed to implement and enforce these rules. Labor inspectorates are often tasked with monitoring and enforcing new recruitment laws or regulations but can lack the resources or training to do so effectively, while weak governance can undermine implementation efforts. Looking ahead, governments will need to dedicate more resources to implementation and, amid the rise of online job platforms and advertising of work on social media, take care to ensure regulations reflect the current reality of how migrant workers learn about and access job opportunities. Another major focus of these initiatives is working directly with recruiters and employers to improve recruitment practices.

Private recruitment agencies (and their networks of subagents) play a critical role in connecting employers and workers in many labor markets, but they can charge considerable sums that workers often end up covering. In recent years, the recruitment industry has pursued self-regulation alongside national requirements for registration or licensing, including through codes of conduct and participation in capacity-building or voluntary certification programs run by actors such as the International Organization for Migration and the Fair Hiring Initiative. But boosting participation and transforming the recruitment industry will require moving away from reliance on the "moral" case for fair and ethical recruitment and focusing more fully on the "business" case for compliance. One step is to explore practical ways to help smaller recruiters make the transition to covering all upfront recruitment costs before they are reimbursed by an employer, for example by providing either government-backed or private loans. Another step that governments can take to help grow demand for ethically sourced labor is to set

out clear incentives for compliance—such as preferential access to markets, fast-tracked registration or visa processing, or financial incentives such as tax exemptions—while raising the costs of operating under the table through improved enforcement.

Employers also have a key role to play in implementing fair and ethical recruitment practices across their supply chains. The last decade has seen a huge increase in private sector-led initiatives focused on recruitment issues (such as the Responsible Labor Initiative and the Leadership Group for Responsible Recruitment) as well as employers adopting codes of conduct and pursuing industry-led capacity building or auditing (drawing on human rights-based business models such as the UN Guiding Principles on Business and Human Rights). This has especially been the case in sectors that have seen high-profile cases of forced labor, such as consumer goods, construction, and electronics. But moving the needle on this issue will once again require going beyond voluntary initiatives to focus on far greater compliance with fair and ethical recruitment standards. Like private recruiters, changing the calculus for employers will require a combination of "carrots" (for example, providing support for employers in industries with low profit margins as they make the transition to ethical recruitment) and "sticks" (such as the threat of export bans, fines, and reputational damage).

The combination of rising global mobility and fast-changing labor markets offers an opportunity for the international community to revisit strategies for promoting fair and ethical recruitment practices. Alongside efforts to develop national and regional legislation and standards, more work is urgently needed to address uneven implementation of regulations and compel employers and recruiters to embrace agreed-upon standards, in close consultation with migrant workers themselves.

1 Introduction

Moving to another country for work is far from a new phenomenon, but questions of how and under what conditions workers are recruited across international borders have attracted increased scrutiny in the last decade and a half. This attention has been spurred by the rising number of people on the move in search of employment and growing awareness of the risks involved, including the potential for exploitation, human trafficking, and forced labor.[2]

At the international level, recruitment has long featured as part of the decent work and labor standards agenda, but the issue has assumed a more prominent role in discussions on international migration since 2006. Calls for international recruitment standards and better regulation of recruiters made at the first Global Forum on Migration and Development in 2007 later became commitments by several countries at the 2013 UN High-Level Dialogue on International Migration and Development.[3] This sparked the creation of two flagship initiatives on fair and ethical recruitment in 2014 that have gone on to define the field: the International Labor Organization (ILO) Fair Recruitment Initiative and the International Organization for Migration (IOM) International Recruitment Integrity System, or IRIS: Ethical Recruitment.

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The result has been a flurry of activity over the last decade to set out principles for international recruitment and working conditions, including defining recruitment fees and other related costs, pushing for the Employer Pays Principle (that employers, not workers, should bear the costs of recruitment), establishing guidance for different industries and stakeholders, and developing recommendations on how governments can better regulate recruitment.[4] The principles that emerged in this period have been reflected in broader multilateral migration agreements, such as the 2018 Global Compact for Safe, Orderly, and Regular Migration, which has a dedicated objective on fair and ethical recruitment and decent work, as well as related human rights and due diligence legislation (such as that proposed by the European Union).[5] Private-sector and civil-society actors have also assumed larger roles on recruitment issues, for example by developing industry-level codes of conduct or guidance, capacity-building tools, nonprofit- or union-led initiatives to provide information and services to migrant workers, and advocacy on their behalf. Meanwhile, efforts to better police supply chains and tackle forced labor more broadly have led to high-profile cases in which employers have been hit with import bans and other sanctions for poor recruitment policies, inadequate working and living conditions, and other violations.[6]

But while there has been significant progress in setting the rules of the road, the extent to which these standards are having an impact on the lives of migrant workers is less clear. Many still pay high recruitment costs or face practices that place them at risk of exploitation, such as the lack of a formal contract and limited access to remedy (such as repayment of withheld wages). Gender-based discrimination combined with migrant women's overrepresentation in sectors with fewer formal labor law protections (such as domestic and care work) can leave female migrant workers especially vulnerable to exploitation. The COVID-19 pandemic shone a bright light on these shortcomings, illustrating the prevalence of wage theft and the ways in which migrant workers are excluded from systems of social and legal protection.[7] The pandemic's economic fallout

also exacerbated incentives to (re)migrate, leading to further downward pressure on recruitment and working conditions along some corridors.

There is an urgent need to review how recruitment norms are translated into practice. The number of people on the move is likely to continue to increase in the coming decades, fueled by demographic disparities, limited economic opportunities, and other factors such as political turmoil and rapid-onset climate events that can spark movement. And as more people migrate under potentially more dangerous circumstances, promoting fair and ethical recruitment will only become more challenging. The nature of work is also changing, presenting new challenges for managing recruitment. Traditional employer-employee relationships are being replaced by more informal, temporary, or indirect arrangements, such as freelance and platform work and third-party employment, while the rise of social media and digital technology is transforming how people find work—all developments that make it harder to monitor and enforce decent recruitment and working conditions. Drawing on project evaluations, stakeholder consultations, and targeted focus groups, this policy brief explores what we do (and don't) know about progress toward fair and ethical recruitment to date and priorities for future work by governments, employers, and recruiters.[8]

2   What Makes Recruitment Fair and Ethical?

Fair and ethical recruitment can be defined broadly as the recruitment of a worker in a way that is lawful and respects the worker's rights.[9] Different terms are used to describe this type of recruitment—including "fair," "ethical," and "responsible," or a combination of these terms—but the broad criteria or principles remain the same.[10] IOM's IRIS: Ethical Recruitment

initiative describes how this translates into its work with different stakeholders, noting how for migrant workers, the focus is on improving transparency, reducing exploitation, and supporting access to remedy; for employers, the initiative works on identifying ethical recruiters, supporting enhanced due diligence, and tackling forced labor and modern slavery; and for recruiters, IOM supports compliance with ethical recruitment practices.[11]

Private recruitment agencies are a big part of this conversation, given the prominent role they often play both in connecting workers with employment opportunities and in helping workers navigate the recruitment and immigration process. In practice, the role (and consequently, regulation) of private recruitment agencies hinges on factors such as state capacity and willingness to regulate the market and enforce regulations, the type of job and profile of workers, and the migration corridor.[12] Some countries (such as Morocco and the Philippines) have set up public employment agencies that perform many of these duties in lieu of private actors. And along some corridors (e.g., Asia to the Middle East), complex immigration, recruitment, and employment regulations can fuel demand for the services of recruiters, while in other regions (such as mobility within Latin America), the greater degree of mobility permitted by free movement regimes (and more informally, by porous borders) means that many workers are able to relocate on their own and then search for jobs on arrival.

A key theme of work on fair and ethical recruitment is the question of who pays. In 2018, the ILO adopted its formal definition of recruitment fees and related costs such as travel, accommodation, and orientation.[13] The position adopted by the ILO, IOM, and others is that workers and jobseekers should not be responsible for these recruitment fees and related costs, which should instead fall to recruitment agencies and employers. Meanwhile, the Employer Pays Principle advanced by the Institute for Human

Rights and Business and other civil-society actors asserts that employers should assume the full costs of recruitment. In practice, however, stakeholders continue to disagree about who should bear which costs and under what circumstances (including whether workers should bear some related costs), especially when it comes to workers with fewer formal qualifications, as well as what the optimal role is for recruitment agencies and other intermediaries in facilitating labor migration.

Representatives of civil-society and international organizations alike described how fair and ethical recruitment is much more of a "norm" compared to the mid-2010s, and how their engagement with private-sector actors now focuses less on explaining the basics and more on questions of implementation.

The last decade and a half's attention to fair and ethical recruitment has resulted in a growing familiarity with the ingredients of such recruitment processes, even if work on achieving the overall vision continues unevenly. Stakeholder interviews conducted for this study underscored the progress made in articulating the case for fair and ethical recruitment and building familiarity with related concepts. Representatives of civil-society and international organizations alike described how fair and ethical recruitment is much more of a "norm" compared to the mid-2010s, and how their engagement with private-sector actors now focuses less on explaining the basics and more on questions of implementation.[14] This new baseline of knowledge in the private sector and among policymakers and other stakeholders also includes a greater understanding of recruitment-related risks, such as the links

between debt bondage and forced labor[15] and the connections between recruitment and other policy areas. This includes, for example, links with employment-based migration policies (e.g., rules around migrant workers' ability to switch employers), labor standards and enforcement, and human rights principles, as articulated in the actions set out under Objective 6 of the Global Compact for Migration, to "facilitate fair and ethical recruitment and safeguard conditions that ensure decent work."[16]

More work is needed to translate these international norms and standards into practice at the regional and national levels, however. Many governments have introduced legislation or regulations on recruitment, although there is wide variation in how they treat issues such as recruitment fees and the role of recruiters. Stakeholders consulted for this study suggested that while there is broad support for no recruitment fees being charged to migrant workers or jobseekers, there is less consensus on whether migrant workers should also not bear any responsibility for related costs (such as travel, accommodation, and administrative costs). This relates to a broader question about whether employers should bear some or all recruitment-related expenses, and what this would mean for prices and profit margins within supply chains. Meanwhile, several civil-society and international entities have developed guidelines on repaying workers who have paid recruitment fees and related costs, but this is another area where there is less consensus about what concretely should be repaid (for example, how to calculate this sum and the cutoff date) and how to divide up responsibility among employers, recruiters, and workers.[17]

Another issue is that, despite the flurry of activity both on regulating recruitment and on introducing voluntary initiatives such as industry-led codes of conduct, there remains a lack of transparency about the impact of this work. Ascertaining the cost of recruitment along different corridors and for different

sectors or profiles of workers (including migrant women) remains a formidable challenge, reflecting the highly complex and context-specific nature of recruitment. Work is ongoing to improve recruitment cost data collection, including as part of the implementation of the UN Sustainable Development Goals, by building the capacity of national statistical agencies to gather such data during regular migration and labor surveys.[18] However, most existing recruitment cost datasets are currently held by the private sector or companies conducting audits of supply chains and, as a result, are unpublished or locked away behind nondisclosure or confidentiality agreements. More work is needed both to improve the collection and sharing of data on issues such as recruitment costs as well as to develop clear plans for monitoring and evaluating progress in government- and industry-led initiatives.

An important part of building on the work that has occurred to date will be making a clear business case for fair and ethical recruitment. This raises a range of questions for the international community to consider, including what eliminating recruitment costs for workers should look like in practice, what market incentives could help create a clearer "first mover" advantage for employers and recruiters willing to sign up to these principles, and what financial models could help smaller employers and recruiters make the transition and manage upfront costs without downstream consequences for workers.

3   Lessons Learned to Date

In recent years, projects or initiatives seeking to promote fair and ethical recruitment have proliferated. These initiatives may focus in on specific recruitment issues, such as tackling costs along certain corridors (e.g., Asia to the Middle East) or in certain sectors (e.g., construction or domestic work), or recruitment-related activities may be included as part of a broader set of actions to advance respect for human

rights in business, promote decent work, tackle human trafficking, or support migration governance, for example. While some are led by international organizations (such as ILO or IOM), governments, or civil-society organizations, other initiatives have been spearheaded by employers or recruiters themselves, reflecting their growing role in this space.

Activities to promote fair and ethical recruitment generally fall into three broad buckets:

► developing clear rules for recruitment through legislation and regulations,

► promoting ethical recruitment practices among recruiters, and

► encouraging employers to recruit responsibly.

In practice, initiatives may blend these activities, for example by combining support for regulating recruitment with capacity building for recruiters. But these buckets nonetheless help to highlight the different target audiences for efforts to improve recruitment practices (governments, recruiters, employers, civil-society actors, and migrant workers), and they hint at potential differences of opinion over which approach is likely to yield the greatest impact. While government regulation is key for setting and enforcing recruitment standards, some stakeholders point to the role of the private sector in driving forward reforms to recruitment practices, for example.

To date, it remains challenging to assess how and to what extent these initiatives—taken as a whole—have moved the needle toward fair and ethical recruitment. Evaluations point to the successes and shortcomings of individual initiatives, and there is a growing body of work on good practices for recruitment, especially at the industry level.[19] It is also possible to identify some concrete "wins" at the industry level or along certain corridors. In interviews, representatives of civil-society and industry organizations suggested that zero-fee recruitment is slowly

becoming more common in the electronics industry, for example, following a decade of work to tackle the issues of forced labor and high recruitment fees among migrant workers in electronics factories in Malaysia and other settings.[20] Civil-society representatives also highlighted labor reforms in Qatar in the years leading up to the 2022 World Cup, including reforms to the kafala system (a sponsorship system for foreign workers that ties them to a specific employer on a time-limited contract),[21] improvements to wage protection and enforcement and to remedy, and the opening of visa centers in workers' countries of origin (primarily in Asia and the Pacific) where prospective migrants can receive and sign their contracts.[22]

But the reality remains that many migrant workers still pay high costs for recruitment, despite the work done at the international level both to break down these costs and make the case for relieving workers of them. And while there have been strides in developing recruitment regulations, implementation often remains a challenge, especially in contexts where corruption is prevalent or where limited enforcement capacity and porous borders combine to make it easy for recruiters, employers, and workers to sidestep rules and requirements.

Reviewing the outcomes of these different approaches to fair and ethical recruitment thus requires considering the record on what has been done concretely, but also what could be done going forward. This includes thinking about the best ways to measure impact and opportunities for deeper coordination and knowledge-sharing, especially as work expands to include different industries and corridors and draws in different actors, including those working on recruitment as part of larger portfolios on supply chains, trade policy, labor policy, or migration governance.

A.   *Creating Clear Legal Frameworks for International Recruitment*

A major priority for efforts to promote fair and ethical recruitment has been working with governments to create or strengthen national laws and regulations on recruitment. Regulation helps set out the rules of the road for employers and recruiters, while also providing a framework for migrant workers to understand their rights and access remedy. Developing these regulations involves three elements:[23]

▶ **Creating clear legal frameworks on international recruitment through laws and regulations.** This includes decisions about who is responsible for covering recruitment fees and related costs; whether any of these costs can be charged to workers and, if so, under what circumstances; and options for repayment. Regulations and laws also define the legal status of recruiters, whether to prohibit their operations or as part of a licensing or registration system.

▶ **Setting out enforcement procedures.** Governments also need to determine who is responsible for the implementation of these regulations or laws and equip the relevant agency or agencies with the resources, training, and authority to monitor and enforce them and punish noncompliance.

▶ **Providing avenues for redress.** Another important—if sometimes overlooked—element of this process is identifying how migrant workers can access justice and seek redress at different stages of their migration journey, should they fall victim to unlawful or unethical recruitment practices or employment standards.

Over the last decade, significant investments have been made to support governments in this work. At the international level, this includes the creation of guidelines for regulating recruitment, such as the ILO's *Guiding Principles and Operational Guidelines on Fair Recruitment* (adopted in 2016) and its *Definition of Recruitment Fees and Related Costs*; the IOM's IRIS Standard (and accompanying 2022 handbook for governments); and the Montreal Recommendations on Recruitment (adopted in 2019).[24] Programming has also included technical support for creating regulations through projects such as ILO's Integrated Programme on Fair Recruitment (FAIR) and the national and regional strategies developed under the ILO's Fair Recruitment Initiative; opportunities for knowledge exchange through, for example, the IRIS Global Policy Network on Recruitment for governments and the ILO's Fair Recruitment Knowledge Hub;[25] as well as support in related areas such as helping governments build the capacity of their labor inspectorates.[26] As the number of actors and initiatives proliferate, however, there is a growing need for coordination to address potential overlap and ensure that the projects of international organizations, governments, and civil-society actors can build on and complement each other.[27]

Alongside diverse approaches to controlling recruitment fees, countries also take very different views on regulating private recruitment agencies.

Many countries now have recruitment laws or regulations in place, although the scope and quality of these policies vary widely. A 2020 ILO report surveyed 90 countries that had either ratified relevant ILO conventions on international recruitment, adopted policies prohibiting or regulating recruitment fees for workers, or participated in labor recruitment

programs or bilateral labor agreements.[28] The report found that 59 of the surveyed countries had policies in place to prohibit recruitment fees altogether (either generally or for specific sectors), but it noted that some other countries still permitted certain fees or costs (e.g., documentation, medical, or licensing expenses) to be charged to workers. Alongside diverse approaches to controlling recruitment fees, countries also take very different views on regulating private recruitment agencies. For example, while most countries opt to introduce licensing systems for private recruitment agencies, some countries have banned private recruiters from operating in certain sectors (e.g., the apparel sector in Jordan) or from playing a role in international recruitment at all (e.g., Japan and South Korea).[29]

Bilateral labor agreements are another tool for regulating recruitment. In this type of agreement, sending- and receiving-country governments may set out rules on charging fees or related costs and the responsibilities of different actors as part of its terms for employment. Recent examples include Malaysia's memoranda of understanding with Nepal (2018) and Bangladesh (2021) that require Malaysian employers to bear the costs of recruitment, although reports suggest that in practice, some workers in both sending countries still end up paying some fees or costs.[30] There is also growing engagement on recruitment issues at the regional level. Dialogues such as the Colombo Process have resulted in nonbinding agreements and collaboration on these issues. Meanwhile, the European Union's proposed regulations on forced labor and due diligence mark an example of efforts to develop legally binding regional standards.

Understanding the impact of these regulations on recruitment and employment conditions for workers remains complicated, however. Gaps remain both between what different countries' regulations permit and between what is permitted on paper and what happens in practice during the recruitment process.

For example, in focus groups for this study, recruitment agents and migrant workers who returned to Nigeria from the Gulf States described national authorities as reluctant or unable to enforce international recruitment regulations or laws.[31] And migrant workers themselves may be unaware of these rules; for example, a representative of a Nepalese recruitment agency stated in an interview that the agency would visit remote villages in Nepal to share information about employment opportunities and found prospective workers were often unaware of the zero-fee recruitment model.[32]

Limited capacity for implementation and enforcement is a common challenge. Labor inspectorates or other agencies charged with enforcing recruitment regulations may not have the financial resources or technical capabilities to do so, especially when it comes to monitoring the activities of subagents and other intermediaries working more informally. A 2022 ILO technical brief reported several challenges for the work of labor inspectorates, including an unclear mandate for enforcing recruitment policies or issuing related sanctions, a lack of resources (e.g., to carry out inspections or investigate leads), and limited training on how to spot recruitment-related issues.[33] This limited capacity also makes it hard for government agencies to blacklist recruiters caught deliberately breaking the rules (thereby preventing them from restarting operations under a different name) and to connect enforcement activities with remedy for affected migrant workers.

Another challenge is weak governance and the prevalence of corruption. In interviews conducted for this policy brief, stakeholders provided numerous examples where government officials had clear conflicts of interest (e.g., financial ties to recruitment agencies) that could impede adequate oversight and enforcement. Without taking steps to promote oversight and transparency, greater regulation risks creating more potential nodes for corruption at different stages of the recruitment process, such as

when recruitment agencies are navigating a licensing system or seeking to secure places amid fierce competition for recruitment quotas.

Future Priorities

Investing in the full implementation of international recruitment standards is a critical next step. Governments will need to make sure that national policies are accompanied by clear direction on how to implement these rules at the national and local levels and the responsibilities of different actors, with a dedicated budget set aside. Civil-society stakeholders reiterated in interviews the importance of investing in prevention rather than remedy when it comes to issues such as recruitment costs and withheld wages.[34]

At the same time, it is important to ensure that regulations reflect labor market realities and local capacity. As long as demand exists, recruiters, employers, and workers will continue to find workarounds to onerous requirements. The failure of recruitment bans vividly illustrates this dynamic. For example, Ghana's ban on its nationals moving to the Gulf States for work instead fueled corruption (with workers bribing immigration agents at the airport), the use of unlicensed recruiters and subagents, and greater exploitation of workers with no government oversight.[35] Restrictions introduced in several South and Southeast Asian countries on women migrating to the Gulf States for work likewise encouraged more irregular migration that placed women at greater risk of exploitation and gender-based violence during the migration process and their period of employment.[36] Designing and implementing regulations needs to be a fluid and responsive process, one that takes into account the existing capacity of government and nongovernmental actors to implement and enforce new rules, and that allows governments to respond to developments such as the growing use of social media and online job portals to advertise jobs.

Finally, there is a clear need for more intergovernmental coordination on recruitment policies and practices. Despite work at the international level to develop clear standards for fair and ethical recruitment, policies and practices still vary widely between countries and regions. It is much harder for governments to crack down on recruitment abuses and exploitation if, for example, a destination country's authorities are uncertain what is or is not permitted in the various countries of origin for its migrant workers, or the roles or responsibilities of different actors at different parts of workers' migration journey. Bilateral labor agreements can help address this information gap, but they can take time to negotiate and can face barriers to successful implementation. Regular information-sharing can help improve transparency about national approaches to regulating recruitment, and potentially lay the groundwork for streamlining some regulations down the road, for example at the regional level. This could also form the basis for developing regional standards (e.g., through legislation) and formulating a regional approach to negotiating recruitment and employment conditions, building on the work of actors such as the African Union Commission and the ILO.[37] In turn, this could set minimum standards and improve the leverage of countries of origin that might otherwise face a race to the bottom as they seek to connect their nationals with legal migration opportunities.

B.   *Promoting Ethical Practices among Recruiters*

Another approach is to focus on ways to encourage private recruitment agencies to comply with fair and ethical recruitment standards. This work often involves both carrots and sticks—for example, raising awareness of recruitment standards and building recruiters' capacity to comply with them, and stimulating employer demand for ethically recruited labor, while simultaneously making it harder and more costly for recruiters to knowingly flout these rules.

In some contexts, the recruitment industry has pursued self-regulation alongside national laws or regulations that may set licensing or registration requirements. The most notable examples are the activities of umbrella organizations such as the World Employment Confederation (WEC), which has established a code of conduct for its members and participated in ILO- and IOM-led dialogues and programming (such as the Fair Recruitment Initiative and IRIS).[38] The WEC Code of Conduct includes provisions barring recruiters from charging workers recruitment fees and promoting workers' access to remedy, and it requires WEC members (primarily concentrated in middle- and high-income countries) to comply with its terms. In addition, a 2019 WEC report tracks different voluntary initiatives by its national federations, including national codes of conduct, certification schemes, training, and due diligence.[39]

Other actors have sought to work directly with recruitment agencies to build their capacity to comply with fair and ethical recruitment standards, sometimes culminating in a formal certification. The most well-known example is IOM's IRIS Ethical Recruitment initiative, which offers voluntary certification for private recruitment agencies alongside other capacity-building and stakeholder engagement activities. Building on its capacity-building program, IRIS certification requires recruiters to demonstrate that they comply with ethical recruitment standards and to undergo an audit process.[40] Other examples of voluntary initiatives include the Fair Hiring Initiative's On the Level (OTL) voluntary certification program.

But as in other areas, it remains difficult to assess how and to what extent these interventions are moving the needle on ethical recruitment practices. For example, while it is possible to track who signs on to a code of conduct, their voluntary nature

makes it harder to ascertain how signatories are complying with the code and how this is shaping their operations. Similarly, available data suggest thousands of recruitment agencies have undergone training and capacity building offered by organizations such as IOM, the Responsible Business Alliance's Responsible Labor Initiative, and the Fair Hiring Initiative, but far fewer recruiters have obtained full certification under IRIS or other certification programs such as OTL.[41] And while more companies now offer auditing services to employers and recruiters to examine their supply chains and potentially verify the absence of forced labor and compliance with fair and ethical recruitment standards, the results of these audits are rarely published. Insights from migrant workers themselves can thus be critical for assessing the real-world effects of these initiatives on their recruitment experiences. Civil society-led initiatives such as the Recruitment Advisor platform can help gather and disseminate these insights, allowing migrants to share their experiences working with different recruitment agencies while also finding information about their rights and access to remedy in different countries.[42]

Complying with ethical recruitment standards can push up a recruitment agency's operating costs, for example by requiring additional due diligence procedures or training.

In an interview, a representative of a recruitment agency in Nepal pointed to some of the potential benefits of participating in capacity-building training and certification, describing it as a way to gain an edge on competitors, as well as barriers to achieving certification, namely the often resource-intensive (and time-consuming) process for meeting standards and undergoing audits.[43] Recruiters often need grants or loans to cover the expense of par-

ticipating in extensive audits or capacity-building, for example. Different initiatives also set their own standards and auditing requirements, even while following the same broad principles for ethical recruitment, which can be challenging for recruitment agencies to anticipate and navigate.[44] There is scope to do more to streamline and work toward a global standard for assessing ethical recruitment practices and the risk of forced labor in supply chains.

A more systemic challenge, however, is the difficulty recruiters may face in making the full transition to ethical recruitment practices. Complying with ethical recruitment standards can push up a recruitment agency's operating costs, for example by requiring additional due diligence procedures or training. The zero-fee model also relies on recruiters assuming all upfront recruitment costs (such as travel, accommodation, and immigration-related expenses) before being reimbursed by the employer. As the Nepal-based recruitment agency noted, these upfront costs are difficult to manage in a context where loans are not readily available; as a result, their early foray into ethical recruitment happened side-by-side with more "traditional" operations that involved charging workers a recruitment fee.[45] In addition, competitors that choose not to comply with these rules (or do not see the market case for doing so) can potentially undercut those that do try to meet ethical recruitment standards. Licensed recruitment agencies in Nigeria, for example, complained that their unlicensed counterparts—who had fewer overall responsibilities or consequences—were often to blame for high-profile abuses such as workers being stranded in the Gulf States.[46]

Future Priorities

Making the case for complying with ethical recruitment standards, and potentially increasing the uptake of voluntary certification or related capacity-building initiatives, will hinge on asserting the material advantages for recruiters. One compelling

argument is the ability to attract new business. Programs such as IRIS and OTL offer a quality-control stamp to employers and recruiters as a way to signal the quality of their operations to workers. As more recruiters participate in certification programs, there is scope to explore opportunities to promote certified or trained recruiters and help them connect with a wider pool of employers, including in new markets. Another potential approach involves preferential access to markets. For example, governments could reward recruiters' compliance with national regulations and potentially also their participation in capacity-building or full certification programs by fast-tracking their registration or licensing and/or visa processing for workers they recruit, offering financial incentives such as tax exemptions, or providing them with preferential or exclusive access to international recruitment.[47]

Creating a stronger market advantage for ethical recruiters is vital, but it is also important to tackle the practical barriers to making this transition. Recruiters may be willing to recruit ethically but lack the means to fully transition to an ethical recruitment model across all their operations, which is typically a requirement for full certification. Making this switch requires assuming all upfront costs for workers without being able to charge these expenses to employers until the completion or near completion of the recruitment process—something smaller recruitment operations in particular may lack the cash reserves to do. Policymakers could explore different financial models such as loans to help smaller recruitment agencies test this model and cover their operating costs while awaiting payment.[48] Finally, the commitment to promoting ethical recruitment also needs to be accompanied by steps to crack down on unlicensed recruiters and tip the market in favor of recruiters who play by the rules, namely by investing in and training labor inspectorates to conduct more monitoring and enforcement.

C. *Encouraging Employers to Recruit Responsibly*

Employer engagement is critical if fair and ethical recruitment standards are to be translated into practice. Over the last decade, the private sector has taken on a more prominent role in the push for fair and ethical recruitment, particularly in sectors that have seen high-profile cases of forced labor and other abuses, such as the consumer goods, construction, and electronics industries.[49] For example, industry associations and individual employers have adopted codes of conduct that may include provisions on recruitment and/or tackling forced labor and undergone audits to assess the prevalence of forced labor in their supply chains, and fair and ethical recruitment increasingly features in ethical business initiatives.[50] At the same time, public scrutiny of private regulation and employer practices is growing both through media coverage of forced labor issues and the introduction of new legislation on due diligence in supply chains, such as the *Uyghur Forced Labor Prevention Act* enacted by the United States in 2021[51] and the European Union's proposed corporate sustainability due diligence directive and forced labor regulation.[52]

Codes of conduct have become commonplace, whether developed by individual employers or by industry-level associations or nonprofit organizations. Some of these codes of conduct include specific references to recruitment practices, such as a commitment to the zero-fee recruitment model or Employer Pays Principle. The Responsible Business Alliance's Code of Conduct, for example, includes a commitment that workers will not pay recruitment fees or related fees for their employment and should be repaid if that is the case, while the Fair Labor Association's Workplace Code of Conduct notes that employers are solely responsible for fees and other costs associated with their workers' employment.[53]

Notably, in both cases, the treatment of related costs (such as travel, documentation, or accommodation in the country of origin while a worker goes through the recruitment process) is not fully addressed. Ascertaining the impact of these codes of conduct remains challenging, not least because some codes remain voluntary (e.g., tied to membership of an industry association or nonprofit-led coalition and it is hard to assess whether membership reflects a tick-box exercise or a genuine commitment to change). In some cases, codes of conduct may be paired with audits to review compliance in supply chains, either directly through a linked program or by using the services of a third-party entity such as Verité or ELE-VATE, although as noted above, the results of these audits often are not published.

Some industry associations or private auditing companies now offer standalone screening programs for employers to assess the risks of forced labor in their supply chains.

Private sector-led initiatives can offer a more nimble and responsive way to identify and address recruitment issues than the process of developing and implementing government regulations. Alongside the growing use of codes of conduct and audits, some industry associations or private auditing companies now offer standalone screening programs for employers to assess the risks of forced labor in their supply chains. Verité's CUMULUS Forced Labor Screen, for example, provides due diligence assessments on request for members who sign up to this platform and use it to screen employers in their supply chains, culminating in a labor supply map and a risk profile.[54] Meanwhile, the Responsible Labor Initiative's Risk Assessment Tool rates the risk of forced labor among suppliers for its members.[55]

However, two issues with employer and industry initiatives cropped up repeatedly in stakeholder consultations. The first is the issue of how to improve oversight over complex supply chains, both for due diligence generally and recruitment practices specifically. Employers may have limited visibility over their supply chains, constraining their ability to conduct basic due diligence, let alone carry out more sophisticated analysis of recruitment practices. The use of third-party or agency workers can add further complexity to these efforts. In the Gulf States, for example, it is common for companies to hire temporary workers through a subcontractor who identifies and recruits those workers through their own networks, adding an additional layer when it comes to assessing how workers are recruited or assigning responsibility for their recruitment and employment conditions.

The second issue is how to respond to recruitment-related problems when identified and assign responsibility for remediation. There is little consensus on the issue of related costs (and the extent to which employers could or should reimburse these to workers) and the issue of how to handle repayments of any fees paid by workers (or withheld wages) to migrant workers along supply chains. Some employers have worked proactively to reform their recruitment policies, develop due diligence or auditing protocols, and require their suppliers to swiftly reimburse any recruitment fees paid by workers.[56] But the mixed record of private regulation on improving working conditions more generally illustrates the competing incentives at play; for example, the push for lower prices can undermine efforts by buyers to encourage suppliers to improve their labor standards by forcing suppliers to cut corners.[57]

Future Priorities

More work is needed to translate commitments such as zero-fee recruitment and the Employer Pays

Principle into practice. One step is building consensus among employers on more contentious issues, including how to handle related costs and the reimbursement of recruitment fees. This process should include perspectives from employers of all sizes and across industries (to reflect differing capacity on issues such as due diligence), and it should look beyond the teams handling corporate social responsibility to also include their HR and procurement counterparts in order to think through different aspects of implementation. Another strategy for encouraging uptake among skeptical employers is to build the evidence base on ways to incorporate ethical recruitment practices without ceding ground to competitors.

Deepening the private sector's commitment to fair and ethical recruitment may once again require both carrots and sticks. Employers' reluctance to assume full responsibility for recruitment costs should

not be dismissed as intransigence; it should be addressed head-on. Concerns about the implications for prices can be genuinely felt, especially in industries with low profit margins such as food production. For example, further work could be done to pilot fair and ethical recruitment practices in different industries in order to assess their relative costs and examine opportunities to streamline and reduce recruitment expenses.[58] In some situations, short-term financial assistance or backing could be provided to help employers with low profit margins switch to a fair and ethical recruitment model.

At the same time, government regulation and enforcement activities can also play an important role in upping the stakes for employers who knowingly flout fair and ethical recruitment standards, for example through the threat of export bans and fines and the prospect of reputational damage. The issuance of withhold release orders by U.S. Customs

BOX 1
Tailored Support for Migrant Workers

Alongside efforts to improve regulation of recruitment practices and spur employers and recruiters to adopt fair and ethical recruitment standards, migrant advocacy groups and other civil-society organizations play a critical role by offering direct support to migrant workers and advocating on their behalf. This support includes raising awareness among workers of their rights and protections during the recruitment process and employment period, as well as providing services and access to remedy as needed, including when workers return to their country of origin. Migrant resource centers can serve as a one-stop shop for these services in countries of destination or origin, and they may be run directly by government agencies (as is the case in South Korea, for example), a partnership between government and civil society (as in Singapore), or by civil-society organizations with funding from donors (a more common model, though potentially harder to sustain financially).

The COVID-19 pandemic underscored the importance of this work. For example, the Migrant Forum in Asia ran a campaign on the issue of wage theft and access to remedy, related to migrant workers being repatriated or returned home when the crisis began without receiving full pay for their work. The challenge ahead lies in helping workers navigate a changing set of issues, such as global health emergencies and the rise of online scams, while scaling up services as more people move for work. As one industry stakeholder noted in an interview, while access to remedy is important, the key is to invest in prevention (by making it harder for unethical recruiters to operate and raising awareness among workers) and early intervention, long before migrant workers fall into debt bondage and end up at great risk of exploitation.

Sources: International Labor Organization (ILO), *A Mapping of Migrant Resource Centres in the Arab States* (Beirut: ILO Regional Office for Arab States, 2018); Migrant Forum in Asia, "Call for an Urgent Justice Mechanism for Repatriated Migrant Workers," accessed August 25, 2023; author interview with a representative of an industry association, July 11, 2023.

and Border Protection on disposable rubber gloves produced by Malaysian companies accused of forced labor violations appears to have been remarkably effective both in securing repayment for affected workers and making companies in this sector more diligent about recruitment and forced labor issues.[59] Government actors can also work with civil-society organizations to roll out and implement these measures. For example, government agencies can explore ways to prevent wages from being withheld, such as by introducing electronic wage transfer systems (which can make it easier to track payments to workers), while civil society can help raise awareness among migrant workers of their rights and access to remedy and, where necessary, support them as they pursue withheld wages or other compensation through litigation or grievance mechanisms.[60] Regular consultations with migrant workers (even through an anonymized complaint system run by a civil-society organization) can also help governments identify patterns of abuse and priorities for future enforcement and redress (see Box 1).

4 Conclusion: Pursuing Fair and Ethical Recruitment in a Changing World of Work

The last decade has seen remarkable progress in developing a consensus about what fair and ethical recruitment could and should look like. The next, formidable challenge will be building on past successes to achieve change on a scale that can benefit most migrant workers. Governments will need to work closely with their nongovernmental counterparts in the private sector and civil society, as well as with migrant workers themselves, to create the right conditions for fair and ethical recruitment practices to

flourish. In doing so, the next phase of this work can shift the conversation away from the moral value of such practices and corporate social responsibility, and instead focus more fully on the business case for how this model can work in practice for employers and recruiters—and the legal and economic consequences of inaction.

At the same time, efforts to improve and more fully implement recruitment regulations will need to anticipate and respond to changing labor markets. The rise of platform and freelance work underscores the need to think about how governments can best regulate different types of employment and their implications for recruitment policies. For example, third-party employment, where someone works for an agency and is then seconded to another employer, already raises important questions about who is ultimately responsible for workers' recruitment and enforcing their rights during employment, including access to remedy. Migrant workers are overrepresented in nontraditional working arrangements such as gig economy jobs,[61] and they make up a notable share of informal workers in many labor markets around the world where this form of employment is prevalent.

As more people find work outside the traditional employer-employee relationship, governments will need to review their policies on recruitment and employment to make sure these workers do not fall through the cracks when it comes to issues such as labor rights and social protection, and that for migrant workers, this vulnerability is not compounded by their immigration status. This speaks to the importance of connecting work on fair and ethical recruitment with parallel efforts on migration governance, decent work, and the regulation and formalization of labor markets, for example. The international community and national governments may need to review how and to what extent international standards on fair and ethical recruitment can apply

to different settings, including regions or countries where more informal employment arrangements are widespread.

Finally, digital technology is disrupting how people learn about employment and immigration opportunities, for better and for worse. Online job portals illustrate this dilemma. By directly connecting employers with prospective workers, these portals can circumvent the need to use recruitment agencies or other brokers, and by cutting out these third parties, potentially reduce recruitment costs. Workers also have a direct connection with their future employer and, as a result, may enjoy greater transparency about the responsibilities and terms and conditions of their future job. At the same time, however, the rapid rise of online job portals and use of social media to find work have come with a boom in scams, putting migrant workers at risk of being defrauded or even trafficked.[62] Regulations need to harness the potential of these innovations while ensuring the necessary safeguards are in place to deter and sanction bad actors. Civil-society organizations can also play a vital role as trusted interlocutors to help prospective and current migrant workers access and verify online information about employment opportunities.

This changing world of work offers an opportunity to revisit strategies for promoting fair and ethical recruitment through a fresh lens. More work is needed to build on successes and address ongoing challenges related to weak implementation and uneven engagement by employers and recruiters. Given the lack of transparency that persists on recruitment costs and on recruitment practices within supply chains, for example, insights from migrant workers on both issues are invaluable for informing this work and identifying priorities for future enforcement. Governments and civil-society organizations should consider how best to collect and integrate workers' insights into their work going forward, whether through regular surveys, anonymized complaint mechanisms, or dialogues.

Peering around the corner to explore how demand for workers is likely to evolve and how employer-employee relationships are likely to change over the coming decades also points to the need for deeper cross-portfolio thinking on recruitment issues. Promotion of fair and ethical recruitment needs to happen hand in hand with efforts to strengthen migration governance, promote decent work, and foster economic development, for example. Laying the foundation for this collaboration will require renewed attention to improving coordination among key actors working on recruitment issues (including UN agencies such as ILO and IOM) and fostering regular exchange between stakeholders (such as employers, recruiters, trade unions, civil society, and migrant workers). Such steps will be essential for efforts to develop common approaches and a sense of shared responsibility and ambition for promoting fair and ethical recruitment.

Promotion of fair and ethical recruitment needs to happen hand in hand with efforts to strengthen migration governance, promote decent work, and foster economic development.

Endnotes

1   This policy brief, originally published in early December 2023, has been revised to more accurately characterize Verité and Impactt.
2   As of 2019, the International Labor Organization (ILO) estimated that there were 169 million international migrant workers worldwide, up by 5 million from 2017. See ILO, *ILO Global Estimates on International Migrant Workers: Results and Methodology*, 3rd ed. (Geneva: ILO, 2021).
3   Nicola Piper and Laura Foley, "Global Partnerships in Governing Labour Migration: The Uneasy Relationship between the ILO and IOM in the Promotion of Decent Work for Migrants," *Global Public Policy and Governance* 1 (2021): 256–278; Kathleen Newland, "The High-Level Dialogue: Sizing up Outcomes, Implications, and Future Forms of Engagement on Migration and Development," *Migration Information Source*, October 9, 2013.
4   See, for example, the ILO's General Principles and Operational Guidelines for Fair Recruitment (adopted in 2016) and the Definition of Recruitment Fees and Related Costs (adopted in 2018), the Montreal Recommendations on Recruitment (launched in 2019), and the Employer Pays Principle (championed by the Leadership Group for Responsible Recruitment on its launch in 2016). See ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* (Geneva: ILO, 2019); International Organization for Migration (IOM), *The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation* (Geneva: IOM, 2020); Institute for Human Rights and Business (IHRB), "Introducing the Leadership Group for Responsible Recruitment" (news release, May 4, 2016).
5   See Objective 6 of United Nations, "Global Compact for Safe, Orderly, and Regular Migration," July 13, 2018.
6   See, for example, A. Ananthalakshmi, "US Lifts Import Ban on Malaysia's Smart Glove," Reuters, April 27, 2023; A. Ananthalakshmi and Rozanna Latiff, "U.S. Lifts Import Ban on Malaysia's Top Glove over Forced Labour Concerns," Reuters, September 10, 2021.
7   For a discussion, see Kate Hooper, *Reassessing Recruitment Costs in a Changing World of Labor Migration* (Washington, DC: Migration Policy Institute, 2022).
8   To inform this research, the author conducted a review of relevant literature and the outcomes of major projects on fair and ethical recruitment (with budgets of USD 1 million or higher) at the global, regional, or national levels, including project evaluations where available. Between May and August 2023, the author also conducted interviews with key stakeholders working on fair and ethical recruitment issues, including representatives from the UN system (ILO, IOM, UN Women), employer and industry groups, the recruitment industry, and civil society (including migrant advocacy organizations). Finally, this research was also informed by three focus groups convened by Mojo Africa (a consultancy firm based in Nigeria) in March 2023 on behalf of the Migration Policy Institute (MPI) involving representatives of recruitment agencies in Nigeria, migrant workers returning to Nigeria after working in the Gulf States, and Nigerian workers planning to relocate for work in the Gulf States.
9   IOM's IRIS: Ethical Recruitment initiative defines ethical recruitment as "hiring workers lawfully, and in a fair and transparent manner that respects and protects their rights." See IOM, "Overview of IRIS" (fact sheet, 2020), 3. Meanwhile, ILO's *General Principles and Operational Guidelines for Fair Recruitment* defines recruitment as covering "the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable." The document then notes, as part of its general principles, that "recruitment should take place in a way that respects, protects, and fulfils internationally recognized human rights" and workers' rights, which includes setting clear terms and conditions of employment, respecting applicable laws and regulations on recruitment and employment, and not charging fees or related costs to workers. It also states that recruitment should be regulated in an effective and transparent way.
10   For example, the ILO focuses on "fair" recruitment in its *General Principles and Operational Guidelines for Fair Recruitment*, while the IOM's IRIS Standard sets out principles for "ethical" recruitment, although it also includes definitions of "fair" recruitment for employers, workers, and recruiters. Other civil-society and private-sector initiatives such as the IHRB's Leadership Group for Responsible Recruitment use the term "responsible" recruitment. Wickramasekra and Baruah trace the use of these terms in a 2017 chapter, noting for example the ILO's use of "fair" recruitment dating back to the 1990s (though not included in its instruments), while the use of "ethical" recruitment originated with concerns about the "brain drain" of health-care workers from low- and middle-income countries. See Piyasiri Wickramasekra and Nilam Baruah, "Fair Recruitment for Low-Skilled Migrant Workers: Issues and Challenges," in *Safeguarding the Rights of Asian Migrant Workers from Home to the Workplace* (Tokyo, Paris, and Bangkok: Asian Development Bank Institute, Organization for Economic Cooperation and Development, and ILO Regional Office for Asia and the Pacific, 2017).
11   IOM, "IRIS Ethical Recruitment," accessed August 15, 2023.

12   Martin notes how in situations where demand outstrips supply (e.g., for highly skilled workers), employers will typically pay recruitment costs, but that workers with fewer formal qualifications are likely to end up paying recruitment costs due to supply outstripping demand. See Philip Martin, *Merchants of Labor: Recruiters and International Labor Migration* (Oxford: Oxford University Press, 2017). Juredeini notes that while employers tend to cover recruitment fees and costs for high-skilled migrants along the Asia-to-Arab-States corridor, low-skilled workers often have to cover high recruitment fees directly, suggesting this reflects "status or class discrimination, based upon skill-level, education, and training and is the exploitation of the vulnerability (and desperation) of the much larger supply of poor, low-educated, low-skilled migrant labor from Asian countries." See Ray Juredeini, *Ways Forward in Recruitment of Low-Skilled Migrant Workers in the Asia-Arab States Corridor* (Beirut: ILO Regional Office for the Arab States, 2016). For a discussion of how different regions and countries approach the regulation of recruitment, see Beate Andrees, Alix Nasri, and Peter Swiniarski, *Regulating Labour Recruitment to Prevent Human Trafficking and to Foster Fair Migration: Models, Challenges and Opportunities* (Geneva: ILO, 2015).

13   ILO, *General Principles and Operational Guidelines for Fair Recruitment.*

14   Author interviews with representatives of civil-society and international organizations, June–August 2023.

15   See, for example, United Nations, *Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences*, A/HRC/33/46 (Geneva: United Nations, 2016). This 2016 report describes debt bondage as including "migrant workers from developing countries who leave their countries accruing debt to cover the costs associated with recruitment" and notes that "debt is considered to be a key source of vulnerability to trafficking and is one of the mechanisms used to force victims to work in exploitative or abusive conditions."

16   United Nations, "Global Compact for Safe, Orderly, and Regular Migration."

17   The consulting company Impactt has published repayment guidelines that draw on both the ILO's definition of recruitment fees and related costs and the UN Guiding Principles on Business and Human Rights, which includes articles on helping victims of human rights abuses access effective remedy. See Impactt, *Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs* (London: Impactt, 2021); United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (New York and Geneva: United Nations, 2011).

18   See, for example, the progress being made under the Sustainable Development Goal (SDG) 10.7.1 indicator on recruitment costs paid by migrant workers as a share of monthly income earned in the destination country, building on work by ILO and the World Bank to develop this methodology and pilot surveys in select countries. See ILO and KNOMAD, "Statistics for SDG Indicator 10.7.1: Draft Guidelines for Their Collection" (guidance document, May 2019).

19   See, for example, IOM and Sustainable Hospitality Alliance, *Establishing Ethical Recruitment Practices in the Hospitality Industry* (Geneva: IOM, 2022); ILO, *Compendium of Promising Practices to Advance Fair Recruitment of (Migrant) Workers: 5 Years of the Fair Recruitment Initiative* (Geneva: ILO, 2022).

20   Author interview with a representative of a civil-society organization, August 7, 2023; author interview with a representative of an industry association, June 30, 2023. Issues of forced labor in the electronics industry in Malaysia were highlighted in Verité, *Forced Labor in the Production of Electronic Goods in Malaysia: A Comprehensive Study of Scope and Characteristics* (Amherst, MA: Verité, 2014). However, Verité research from 2019 found that most migrant workers were still paying some recruitment costs as they were recruited to the electronics industry in Malaysia. See Declan Croucher, "Despite 'No Fees to Workers' Policies, Workers Are Still Paying," Verité, August 18, 2023.

21   The kafala system has historically resulted in exploitation due to the degree of control afforded to employers over their workers (e.g., when employers hold their workers' passports), although recent reforms have begun to improve things. See Brooke Sherman, "Changing the Tide for the Gulf's Migrant Workers," Wilson Center, June 6, 2022.

22   Author interviews with representatives of civil-society organizations, June 29, 2023, and July 11, 2023; ILO, "Overview of Qatar's Labour Reforms," accessed August 30, 2023.

23   See IOM, "Adopting a Rights-Based Regulatory Approach to International Labour Recruitment: Ensuring the Protection of Migrant Workers through Ethical Recruitment Regulation," in *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection* (Geneva: IOM, 2022).

24   The Montreal Recommendations draw from a June 2019 meeting co-hosted by IOM, the Government of Canada, the Government of Quebec, the Swiss Development Cooperation Agency, and the U.S. Department of State's Bureau of Population, Refugees, and Migration. This resulted in 55 recommendations grouped under the following nine themes: "(1) protecting migrant workers; (2) recruitment fees; (3) registration and licensing; (4) administration, inspections, and enforcement; (5) ratings, rewards, and rankings; (6) access to grievance mechanisms and dispute resolution; (7) bilateral, regional, and multilateral mechanisms; (8) migrant welfare and assistance; and (9) maintaining the momentum on regulation." See IOM, *The Montreal Recommendations on Recruitment.*

25   IRIS Ethical Recruitment, "Global Policy Network on Recruitment," accessed November 12, 2023; ILO, "Fair Recruitment Hub," accessed November 12, 2023.

26   Corridors in the third and final phase of the Integrated Programme on Fair Recruitment (FAIR), which runs from 2022 to 2025, are Côte d'Ivoire to Tunisia, Ghana to the Arab States, Lesotho to South Africa, and Tunisia to the Arab States. See ILO, "Integrated Programme on Fair Recruitment (FAIR)," accessed August 20, 2023.

27   For example, while ILO and IOM have a global memorandum of understanding in place to help coordinate their work alongside regular coordination at the regional, national, and project levels, there are still instances where their work appears to overlap, for example on setting and promoting recruitment standards. One 2021 study described this dynamic as "characterized by the simultaneous existence of both competition/clashes and cooperation." See Piper and Foley, "Global Partnerships in Governing Labour Migration."

28   ILO, *A Global Comparative Study on Defining Recruitment Fees and Related Costs: Interregional Research on Law, Policy and Practice* (Geneva: ILO, 2020).

29   Andrees, Nasri, and Swiniarski, *Regulating Labour Recruitment*.

30   Pawan Pandey, "Nepal Asks Malaysia to Apply 'Zero-Cost' Migration Policy," *Kathmandu Post*, February 3, 2023; The Daily Observer, "BD-Malaysia Agree to Review MoU Signed in 2021," Daily Observer, February 6, 2023.

31   Participant comments during this study's virtual focus group with recruitment agencies based in Nigeria, March 14, 2023; participant comments during this study's virtual focus group with Nigerian nationals recently returned from working in the Gulf States, March 14, 2023.

32   Author interview with representatives of a Nepal recruitment agency, July 19, 2023.

33   ILO, *Labour Inspection and Monitoring of Recruitment of Migrant Workers* (Geneva: ILO, 2022).

34   Author interviews with representatives of civil-society organizations, July 11 and July 24, 2023.

35   See, for example, Vani Saraswathi, "In Ghana, the Ban that Isn't Feeds Corruption and Desperation," Migrant-Rights.org, April 7, 2023.

36   See, for example, ILO, *No Easy Exit: Migration Bans Affecting Women from Nepal* (Geneva: ILO, 2015); Rebecca Napier-Moore, *Protected or Put in Harm's Way? Bans and Restrictions on Women's Labour Migration in ASEAN Countries* (Bangkok: UN Women and ILO, 2017).

37   ILO, "A Visionary Path towards Fair and Ethical Recruitment in Africa," updated July 16, 2023.

38   World Employment Confederation (WEC), "Fair Recruitment and Migration," accessed August 20, 2023; WEC, "World Employment Confederation Code of Conduct," accessed August 20, 2023.

39   WEC, *Compendium of Voluntary Initiatives Promoting Ethical Recruitment Practices* (Brussels: WEC, 2019).

40   The IRIS Standard, last updated in 2019, identifies several principles for ethical recruitment, followed by more detailed criteria. These principles include two "general" principles—respect for laws and migrant workers' rights, and meeting broad due diligence and ethical standards—and five recruitment-specific principles: (1) prohibition of recruitment fees and related costs to migrant workers; (2) respect for freedom of movement; (3) respect for transparency of terms and conditions of employment; (4) respect for confidentiality and data protection; and (5) respect for access to remedy. See IOM, "The IRIS Standard. Version 1.2, 2019" (brief, 2019).

41   For example, the IRIS website lists two recruitment agencies as having applied for IRIS certification, while interviews suggest about six other agencies are in the process of applying. By contrast, the website lists 600 recruitment agencies as having completed training, although interviews suggest this number is now in the low thousands. Overall On the Level (OTL) participation rates are not published, but in 2022 the OTL program announced the certification of two recruitment agencies working on the Myanmar-to-Thailand corridor. See IRIS Certification, "Labour Recruiters," accessed August 29, 2023; IRIS Ethical Recruitment, "Capacity Building," accessed August 29, 2023; Fair Hiring Initiative, "Advancing Ethical Recruitment in Global Supply Chains: Alpha World Link and International Focus Lead the Way" (OTL news release, May 10, 2022).

42   The International Trade Union Confederation (ITUC) established the Recruitment Advisor platform in 2018, with support from ILO's Fair Recruitment Initiative. At the time of writing, the Recruitment Advisor platform was operating in Bahrain, Bangladesh, Ethiopia, Ghana, Hong Kong, Indonesia, Jordan, Kenya, Nepal, Nigeria, the Philippines, Sri Lanka, and Uganda. See ITUC, "Recruitment Advisor: Who We Are," accessed August 28, 2023; ITUC, "ITUC Launches Migrant Worker "Recruitment Adviser" Platform" (news release, April 4, 2018).

43   Author interview with representatives of a Nepal recruitment agency, July 19, 2023.

44   For example, the IOM IRIS certification program requires a two-part independent audit of recruitment agencies' management system and practices to assess compliance with the IRIS Standard and its seven principles, culminating in five possible outcomes, including two pass marks for certification ("Leading" and "Performing"). The OTL certification program, meanwhile, assesses recruitment agencies against ten principles and requires a two-part audit plus participation in an integrity system. See IOM, "IRIS Voluntary Certification Scheme," accessed August 29, 2023; Fair Hiring Initiative, "OTL Framework," accessed August 29, 2023.

45   Author interview with representatives of a Nepal recruitment agency, July 19, 2023.

46   Participant comments during this study's virtual focus group with recruitment agencies based in Nigeria, March 14, 2023.

47   Martin suggests that governments could offer different incentives including lower processing costs, tax exemptions (e.g., reduced or exempt corporate tax), and introductions to foreign employers. See Martin, *Merchants of Labor*.

48   For a discussion of different funding models, including debt financing, supply chain finance, or venture finance, see Kim Geronimo and Rob Rogers, "We Need Better Solutions to the Capital Constraints Faced by Responsible Recruitment Agencies," Labor Mobility Partnerships Forum, April 6, 2022.

49   For example, the Fair Labor Association was established in 1999 by the Clinton administration in the United States, building on a taskforce set up to address child labor and forced labor in apparel and footwear factories. It now works around the world, with a focus on the agriculture, apparel, and footwear industries. The Responsible Business Alliance, formerly the Electronics Industry Citizenship Coalition, was set up in 2004 to improve industry-wide standards. It established a dedicated taskforce on forced labor in 2014 in the wake of a Verité report revealing a high risk of forced labor among the electronics industry workforce in Malaysia. See Fair Labor Association, "Annual Public Reports," accessed August 23, 2023; Responsible Business Alliance, "Trafficked & Forced Labor," accessed August 23, 2023; Verité, *Forced Labor in the Production of Electronics Goods in Malaysia*.

50   See, for example, Rainforest Alliance, "2020 Certification Program," accessed November 12, 2023.

51   U.S. Department of Homeland Security, "Uyghur Forced Labor Prevention Act," updated July 31, 2023.

52   European Commission, "Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and Amending Directive (EU) 2019/1937" (COM [2022] 71 final, Brussels, February 23, 2022); European Commission, "Proposal for a Regulation of the European Parliament and of the Council on Prohibiting Products Made with Forced Labour on the Union Market" (COM [2022] 453 final, Brussels, September 14, 2022).

53   Responsible Business Alliance, "Responsible Business Alliance Code of Conduct, Version 7.0" (code of conduct, 2021); Fair Labor Association, "Workplace Code of Conduct and Compliance Benchmarks" (code of conduct, revised October 28, 2020).

54   Verité, "CUMULUS Forced Labor Screen," accessed September 17, 2023.

55   Responsible Labor Initiative, "Risk Assessment Tool," accessed September 17, 2023.

56   A 2017 report by IHRB details the work done by Apple, Patagonia, QDVC (a construction company based in Qatar), HP Inc., and NXP Semiconductors (a global semiconductors manufacturer) to ban suppliers from charging recruitment fees and enforce remedy where applicable. See IHRB, *Responsible Recruitment: Remediating Worker-Paid Recruitment Fees* (Eastbourne, UK: IHRB, 2017).

57   Sarosh Kuruvilla, *Private Regulation of Labor Standards in Global Supply Chains: Problems, Progress, and Prospects* (Ithaca, NY, and London: Cornell University Press, 2021).

58   For example, a New York University (NYU) study of QDVC's fair and ethical recruitment policies for recruiting South Asian migrants to work in the construction industry in Qatar estimated that the costs were less than 1 percent of the overall project costs, and potentially less when factoring in other cost savings such as greater worker retention. See Gabriel Ng, Su-Kyong Park, Kinni Shah, and David Segall, "Less than One Percent: Low-Cost, Responsible Recruitment in Qatar's Construction Sector" (research brief, NYU Stern Center for Business and Human Rights, New York, June 2019).

59   Author interview with a representative of a civil-society organization, July 11, 2023; author interview with a representative of a UN organization, June 20, 2023.

60   Electronic wage transfer systems, such as those introduced in the Gulf States and Thailand, can help generate a digital "paper trail" to record payments to workers. However, experience suggests some ongoing challenges, including how to ensure payment for all work performed (e.g., overtime), tackling low levels of digital literacy or banking among migrant workers, and connecting workers with effective and swift access to remedy. See Bassina Farbenblum and Laurie Berg, *Migrant Workers' Access to Justice for Wage Theft: A Global Study of Promising Initiatives* (Sydney: Migrant Justice Initiative, 2021).

61   See, for example, Niels van Doorn, Fabian Ferrari, and Mark Graham, "Migration and Migrant Labour in the Gig Economy: An Intervention," *British Sociological Association* 37, no. 4 (2022).

62   The rise of online job scams featured on the agenda of a May 2023 meeting of Association of Southeast Asian Nations (ASEAN) senior officials, for example, following a spike in cases of workers falling victim to online schemes across Southeast Asia and ending up forced laborers in other countries. In June 2023, the International Criminal Police Organization (INTERPOL) issued a global warning about online job scams resulting in workers being trafficked and forced to commit financial crimes, estimating that "tens of thousands" had been trafficked in Southeast Asia over the last few years. See Kate Lamb, "Southeast Asian Leaders Pledge Crackdown on Human Traffickers Online Scams," Reuters, May 10, 2023; INTERPOL, "INTERPOL Issues Global Warning on Human Trafficking-Fueled Fraud" (news release, June 7, 2023).

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Kate Hooper is a Senior Policy Analyst with the Migration Policy Institute (MPI) International Program, where she leads the Institute's global work on labor migration. She is also the primary point person for the Transatlantic Council on Migration, MPI's flagship international initiative that brings together senior policymakers, experts, and other stakeholders to discuss responses to pressing migration, protection, and immigrant integration issues. Her areas of research include legal migration pathways, fair and ethical recruitment, labor market integration, and complementary pathways for displaced populations.

Ms. Hooper holds a master's degree with honors from the University of Chicago's Committee on International Relations and a bachelor of the arts degree in history from the University of Oxford. She also holds a certificate in international political economy from the London School of Economics.

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