



PRELIMINARY VERSION CONCEPT NOTE - REGIONAL WORKSHOP

Activity name	<i>LABOR MIGRATION GOVERNANCE: EQUITABLE RECRUITMENT AND PREVENTION AGAINST FRAUDULENT PRACTICES</i>
Place	Guatemala
Dates	September 3 – 5, 2019

CONTEXT AND RATIONALE

Around 3.4% of the world's population are migrant persons, that is 258 million¹ persons, contributing to 9% of the global GDP, with an estimated \$7 trillion dollars. An increasing and significant part of these persons migrate in search of labor opportunities. According to the International Labour Organization (ILO), there were 164 million migrant workers in the world in 2017, an increase from 9% in 2013.²

Labor migration can contribute to the economic growth of countries of origin, transit, and destination of migrants. However, this phenomenon is not exempt of challenges and difficulties. Some of these challenges are related to the recruitment process and contracts, the regularization of migrant workers, the prejudices and stigma associated to migration in host communities, the lack of information of employers and migrants, among others.

During the migration process, migrants are faced with diverse factors that may lead to vulnerability of their personal integrity and human and labor rights; part of this is owed to existing disinformation before leaving the country of origin about the process of human mobility. This disinformation increases the risk of falling prey to abusive and fraudulent

¹ United Nations, Department of Economic and Social Affairs, 2017: <https://www.un.org/es/sections/issues-depth/migration/index.html>

² International Labor Organization, 2018: https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_652150/lang-es/index.htm





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practices, deceit and/or employment and/or recruitment scams, and may even lead to trafficking in persons, forced labor and exploitation. For multiple reasons, migrant workers are more vulnerable to be deceived by recruitment employment agencies, intermediaries or unscrupulous recruiters. Some of these agencies are even fictitious and act outside the law; charge exorbitant fees for intermediary services, which is contrary to international labor norms; as well as for transport costs, identity documents, medical insurance, approval of contracts, training, among other aspects that may be deducted from the salary of migrant workers.

These forms of exploitation are often found during employment audits or by labor inspection in the countries where they work, once the violation or damage has occurred and requires remediation by employers or governments themselves. There are also testimonies of these human and labor rights violations regarding migrants who are victims of human trafficking and labor exploitation.

In many migrant corridors, this is further worsened by frail government regulations that allow charging fees to workers and jobseekers, often as a percentage of their salaries, or according to the country of destination or the employment and occupation. These inconsistencies with international law create uneven ground for those recruiters that conduct their businesses in an ethical and fair manner; at the same time, it prevents interjurisdictional enforcement of national and subnational laws when the crimes committed within a jurisdiction are discovered in another, by not having the necessary bilateral agreements to ensure integrity. This is aggravated due to divergent views on regulation that range from the simple concession of licenses to solid, prescriptive legal codes with mechanisms for compliance that lead to criminal proceedings.

On the other hand, enterprises recognize ever more the potential risk situations of abuse and exploitation that their migrant workforce may face, both in their workplace and along the supply chains, which may render serious consequences for their image and businesses. Given the complex nature of labor in supply chains, the lack of transparency and the multiplicity of actors, the exploitation of migrant workers often takes place without the employers' knowledge. Nonetheless, companies may implement due diligence and other coherent practices contained in the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", and the "General Principles and Operational Guidelines for Fair Recruitment", to mitigate the risks of abuse in business operations and supply chains.





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In this context, observing and effectively carrying out fair and ethical recruitment becomes particularly relevant. Governments, employers' and workers' organizations, recruiters, public employment services, national statistical offices and civil society have complementary and essential roles in achieving the ambitious objectives set forth in ILO's General Principles and Operational Guidelines for Fair Recruitment and the definition of recruitment fees and related costs recently adopted by the ILO.

Globally, the Sustainable Development Goals (SDGs), and particularly 8.8 y 10.7, urge UN Member States to facilitate orderly, safe, regular and responsible migration, and to promote labor rights and safe and secure working environments “of all workers, including migrant workers, particularly women migrants, and those in precarious employment”.

SDG 10 includes a specific indicator (10.7.1) on the recruitment cost borne by employees. For this target to be met, programs and policies related to fair recruitment and labor migration need to be based on solid evidence and comparable data. For this reason, the ILO and the World Bank, in consultation with experts of national statistical offices, have developed a methodology to measure SDG 10.7.1 on recruitment costs.

Addressing the challenges related to recruitment and employment and building on the progress promoted by diverse public and private actors, requires an adequate governance of labor migration.^{3 4} At the regional level, in the Member Countries of the Regional Conference on Migration (RCM), diverse challenges to promote fair and ethical recruitment, and a good governance of labor migration, have been identified. Some of these challenges are linked to compliance with international and national norms and coordination among regional institutions, with a view to creating regular, ordered and safe labor migration pathways, and reducing fraudulent recruitment practices⁵.

The RCM Member Countries constitute a region in which migration flows present dynamics that form a “*complex system of labor migration corridor..., modified permanently by demographics, globalization, environmental factors and others related to political and social instability*”⁶. One of the migration flow trends in the region is the high

³ Migration Governance. available through: <https://rosanjose.iom.int/site/es/categor-blog/gobernanza-migratoria>

⁴ Labor Migration and Governance https://www.ilo.org/americas/sala-de-prensa/WCMS_579266/lang--es/index.htm

⁵ Among fraudulent practices the following have been identified: “deception about the nature and conditions of work; retention of passports; illegal wage deductions; debt bondage linked to repayment of recruitment fees; threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country.” <https://www.ilo.org/global/topics/fair-recruitment/lang--es/index.htm>

⁶ Labour migration in Latin America and the Caribbean. Diagnosis, Strategy and ILO's work in the Region. (ILO Technical Reports, 2016)





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degree of feminization of labor migration; in Central America, 50% of migrants are women⁷. Barriers to accessing accurate and practical information about the work conditions and their labor rights exists, often leading to those who suffer violations of rights not being identified as victims of fraudulent practices. Conversely, there is a series of information gaps in recruitment processes, both on origin and the destination countries. The responsibility of establishing equitable recruitment mechanisms is relayed on to the governments, however, the role of employer organizations and worker's organizations is key on ensuring an effective governance.

With this context in mind, it is evident that labor migration governance^{8 9} in RCM Member Countries has a series of challenges to accomplish an adequate management in equitable recruitment and access to justice for migrants. One of these challenges is linked to the compliance with national and international norms, as well as to the coordination between institutions in the region, actions that would allow for a considerable reduction in fraudulent recruitment practices and limited access to justice for migrants.

As a response to the aforementioned challenges, the International Organization for Migration (IOM) and the International Labor Organization (ILO), have decided to join forces to support RCM Member Countries in the improvement of their labor migration frameworks as well as the implementation of policies and fair recruitment practices, in line with the ILO's Principles and Guidelines, and the definition of 'recruitment fees or related costs' recently adopted by the ILO and the 'Employer Pays Principle' established by the Leadership Group for Responsible Recruitment in 2016, which states that no worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.

The potential effects of an effective governance of fair and ethical recruitment in the region are:

- To facilitate labor migration processes through regular, ordered and safe channels;
- To reduce the cost of labor migration, and to improve the development-related results for migrant workers and their families and the countries of origin and destination;
- To contribute to prevent trafficking in persons and forced labor;
- To protect the rights of workers, particularly migrant workers, against abusive and fraudulent recruitment practices.

⁷ Ibid.

⁸ Migration Governance. Refer to: <https://rosanjose.iom.int/site/es/categor-blog/gobernanza-migratoria>

⁹ Labor Migration and Governance: https://www.ilo.org/americas/sala-de-prensa/WCMS_579266/lang-es/index.htm





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In light of everything mentioned above, IOM and ILO present for the consideration of Member Countries of the RCM, a **workshop on promoting the effective governance of labor migration for fair and ethical recruitment and the prevention of fraudulent practices**. To encourage decision-making based on evidence and the compliance with SDGs, the workshop proposes to hold **a special session on recruitment fees and related costs, and on the methodology for data collection for measuring SDG 10.7.1 on recruitment costs**.

The workshop aims to provide technical assistance to the participant countries, so they can implement concrete mechanisms to continue to advance on the compliance of the four pillars of ILO's Fair Recruitment Initiative:

1. Enhancing global knowledge on national and international recruitment practices.
2. Improving laws, policies and enforcement to promote fair recruitment.
3. Promoting fair business practices.
4. Empowering and protecting workers.

These mechanisms include, among others, IOM's International Recruitment Integrity System (IRIS) and Corporate Responsibility in Eliminating Slavery and Trafficking (CREST), as well as the International Fruit and Vegetable Alliance on the Promotion of Social Responsibility (AHIFORES), and other instruments for the prevention of fraudulent practices during hiring and recruitment processes.

In addition, the workshop is based on the following principles:

- the **ILO Multilateral Framework on Labor Migration**, particularly its components on decent work, knowledge base, effective management of labor migration, protection of migrant workers, migration process, and prevention of and protection against abusive migration practices;¹⁰
- the **IOM Migration Governance Framework (MiGOF)**, especially its principle to adhere to international standards and fulfillment of migrants' rights, and its objective to advance the socioeconomic well-being of migrants and society.¹¹

¹⁰ https://www.ilo.org/global/topics/labour-migration/publications/WCMS_178678/lang--es/index.htm

¹¹ https://www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf





OBJECTIVES

General objective

Promoting an effective labor migration governance in an equitable and ethical recruitment related dimension as well as the prevention of fraudulent practices regarding recruitment.

Specific objectives

1. Exchanging diagnosis and contextual information about the obstacles and main challenges for an effective labor migration governance.
2. Sharing and exchanging best practices as well as lessons learned in the RCM Member Countries regarding initiatives that promote an effective labor migration governance and the protection of labor rights of migrants and encourage better cooperation opportunities between countries.
3. Spread and promote the practical use of ILO's international definition of "recruitment fees and related costs" in the region, even with the identification and discussion of the current and existing definitions in the RCM Member Countries; as well as instruments for the promotion of practices for the ethical recruitment and employment of migrants, such as IOM's IRIS and CREST.
4. Promoting data generation related to recruitment and identifying RCM Member Countries that could be interested in applying ILO's and World Bank's methodologies for the measurement of process made regarding the SDG Indicator 10.7.1 for hiring cost reduction.

METHODOLOGY

This workshop will utilize a mixed methodology, with technical presentations, spaces for both reflection and participation. After the workshop takes place and all the inputs have been gathered, the organizing institutions will create a systematization of the event that





includes recommendations; they will also offer technical assistance and follow up to the actions implemented on a national scale derived from that Regional Workshop.

The workshop will be organized in two parts:

- a. Two days dedicated to Objectives 1 and 2 aforementioned and focus on the discussion on labor migration governance and ethical and equitable recruitment.
- b. One day specially dedicated to Objectives 3 and 4, with the specific focus on the definition of recruitment fees and related costs, as well as technical sessions specialized on data recollection and methodology for the measurement of hiring cost reduction under SDG Indicator 10.7.1; geared, among others, for the participant statistical offices.

PARTICIPANTS

This concept note proposes a regional workshop oriented towards the specialization of participants in subjects related to labor migration governance and equitable recruitment. It is proposed to direct the workshop towards:

- a) 4 representatives **for each country** (ideally a Head of Department level position), 1 for each of the relevant governmental institutions:
 - Ministries of Labor (departments of labor migration, national employment services and/or departments responsible for regulating recruitment agencies).
 - Institutes or Directorates of Migration.
 - Ministries of Foreign Affairs (consular departments, departments for the protection of national citizens abroad, and/or migration affairs).
 - National Statistics Offices (with knowledge/mandate on relevant issues for migrants).
- b) 5 representatives, in total, from employer organizations and recruitment agencies, nominated through the employer group of the ILO.
- c) 5 representatives, in total, from worker's organizations, nominated through the worker's group of the ILO.





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d) 3 representatives of civil society, nominated through the RNCOM.

RCM observer organizations that wish to participate will be welcome to do so.

Even if the event is targeted mainly to government officials and staff members, there will also be a tripartite panel (with the participation of government officials, as well as trade unions and enterprise organizations) regarding the international definition for recruitment costs and commissions, with the purpose of sharing best practices and relevant experiences for the use of the international definition in the region.

An invitation will also be extended to representatives of civil society organizations with relevant experience in the subject, to participate as guest speakers (for example, CDM, ProDESC).

Regarding the countries participating in the Workshop *“Improving interjurisdictional regulation and enforcement related to international labour recruiters: sharing global best practices”* to be held in Canada on June 6 and 7, 2019, it is recommended that the same people participating may also participate on this event, to ensure a continuity in the subjects covered.





PRELIMINARY AGENDA

LABOR MIGRATION GOVERNANCE: EQUITABLE RECRUITMENT AND PREVENTION AGAINST FRAUDULENT PRACTICES.

Guatemala
September 3 - 5, 2019

Day 1

08:30 – 09:00	Participant Registration
09:00 – 09:30	Welcoming remarks <i>RCM Presidency Pro Tempore – Ministry of Foreign Affairs of Guatemala</i> <i>International Organization on Migration (IOM)</i> <i>International Labor Organization (ILO)</i>
09:30 – 10:00	Introduction: Methodology and Objectives Participant introductions and expectations Activity: Presentation
10:00 – 10:30	Coffee Break
10:30 – 12:30	Regional Context of Recruitment and Labor Migration Governance: Patterns, Obstacles and Challenges Activity: Interactive presentation by each country and dialogue. Facilitated by: IOM and ILO <i>Every country can present for -10 minutes- about their national context on labor migration and recruitment as well as the status or situation with recruiting agencies, challenges the national agencies for employment face and how does international recruitment work in their country.</i>
12:30 – 02:00	Lunch Break
02:00 – 03:45	Standards and Principles for Equitable Recruitment of Migrant Workers and the Definition of Commissions and Recruitment Costs: Regulating Recruitment. Activity: Presentation by Donna Cabrera, ILO Consultant, and interactive interventions from each country; dialogue. Facilitated by: ILO





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03:45 – 04:00 Coffee Break

04:00 – 05:00 Existing Mechanisms for Fraudulent Practices in the Region, Experiences from Governments, Employers and Workers.

Activity: Interactive presentation on case studies (two countries)¹² and debate.

Moderator: IOM

Day 2

09:00 – 09:45 International Recruitment Integrity System (IRIS) and the Corporate Responsibility in Eliminating Slavery and Trafficking (CREST) as instruments for the prevention of fraudulent recruitment and hiring practices.

Reflections regarding the obstacles and possibilities of implementation in the region.

Activity: Presentation by the IOM (45 min)

09:45 – 10:30 Experiences Regarding the Regulation on the Recruitment of Migrants in Alberta, Canada

Activity: Presentation by the representative of Alberta, Canada (45 min)

10:30 – 11:00 Coffee Break

11:00 – 12:30 Best Practices in the International Recruitment of Workers

Activities: Interactive presentation on the practical study cases:

- A National Service on Employment
- AHIFORES: the DEAR distinctive
- PRODESC13: Access to justice for migrants through the implementation of the RADAR Program. The relationship between Human Rights and supply chains.
- CDM. The CONTRATADOS initiative as best practices on both sides of the border.
- CIERTO

¹² The event coordinators along with the delegations will, by consensus, identify the countries participating.

¹³ <http://www.prodesc.org.mx/>





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Questions, answers and discussions.

12:30 – 02:00	Lunch Break
2:00 – 3:30	<p>Tripartite Panel: International Best Practices on the Elimination of Recruitment Fees and Related Costs.</p> <p>Participants: International Trade Union Confederation (CIS / ITUC / MRA), one governmental representative and one employer representative.</p>
03:30 – 4:30	<p>IOM and ILO Cooperation towards RCM Countries to Improve Labor Migration Governance and Equitable Recruitment.</p> <p>(For example: REFRAME, IRIS and CREST) Activity: Plenary session. Facilitated by: IOM and ILO</p>
04:30	Findings and closing of Day 2

Day 3
Defining, Measuring and Eliminating Recruitment Fees and Costs: Challenges and Opportunities to Accomplish SDG Goal 10.7

09:00 – 09:30	<p>2030 Agenda: Measuring SDG Indicators and Relevance to Migration Governance Consultant's Presentation Facilitated by: Panama</p>
09:30 – 10:30	<p>Generation and Analysis of Recruitment Costs: SDG 10.7.1 and the measuring methodology ILO and World Bank presentation</p>
10:30 – 11:00	Coffee Break
11:00 – 11:45	<p>Measuring Recruitment Costs in the Guatemala-Mexico Border: A Case Study on the National Survey on the South Mexican Border Presentation by COLEF and INEGI, Mexico</p>
11:45 – 12:30	Technical Session on the Methodology on Cost Measuring





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Explanation on the Methodology and Instruments

ILO, World Bank

12:30 – 02:00

Lunch Break

2:00 – 4:00

Technical Session on the Cost-Measuring Methodology: an Explanation on the Methodology and a Panel Discussion with the National Statistics Offices

ILO, World Bank

04:00 – 04:30

Coffee Break

04:30

Findings and Closing of the Workshop

RCM PPT Guatemala; ILO and IOM

