# **Draft Submission to the Call for Inputs - 2023 Reports of the UN Special Rapporteur on the Right to Development**

# IOM’s Migration, Business and Human Rights Initiative in Asia

## 28 June 2023

## Migration, Sustainable Development and the 2030 Agenda

Human mobility is an integral part of our societies, and a natural expression of people’s desire to choose how and where to lead their lives. Speaking of migrants and displaced persons means speaking about the people who have been a cornerstone of development, innovation and progress since the dawn of time. At the same time, these are the very people who too often have suffered, been stranded and excluded and exposed to abuse, exploitation and discrimination solely on the basis of their movements.

Human mobility is driven and impacted by major global transformations – such as growing inequalities, changing demographics, climate change, conflicts, digitalization – which already present and will continue to generate their own, evolving set of challenges and opportunities in the years to come, well beyond the 2030 Agenda. At the mid-way point of the 2030 Agenda, these challenges risk leaving hundreds of millions of international migrants, internal migrants and displaced persons behind. that is one in every eight people in the world.

The 2030 Agenda and the SDGs will not be achieved without due consideration of human mobility. People on the move are part of the solution. Migrants can be facilitators of trade and investment by connecting countries of origin, transit and destination through trade routes and business linkages. This can improve and broaden market access, increase demand, strengthen value chains and lower expenses. Migrants are also agents for private sector development at all stages of migration, from pre-departure to return. Despite earning less than men - women migrant workers contribute to about half of global remittances, sustaining economies of many countries around the world. Migrants contribute knowledge and skills transfer, innovation and entrepreneurship. A recent study has shown that every additional 1 per cent of immigration has the potential to boost GDP growth by 2 per cent in destination countries. This is in addition to supporting economies and boosting GDP of countries of origin through remittances and other mechanisms. The digital revolution brings immense potential to support and accelerate sustainable development, but people on the move – especially those with an irregular status – are more likely to experience financial, legal and practical barriers to accessing industry, innovation and infrastructure.

Well designed, and rights-based labour migration policies can contribute to offset demographic changes and increasing labour shortages, it contributes positively to GDP-growth in destination countries, and it supports poverty reduction and community development in countries of origin through remittances and other resources sent back home by migrant workers.

Labour migration and migrant workers are a key contemporary feature of global supply chains, with an estimated 164 million migrant workers globally representing around 5 per cent of the global labour force ([ILO 2021](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_808935.pdf)). Migrant workers are present in most enterprises and workplaces integrated into the global economy through supply chains of various sectors. At the same time, migrant workers remain disproportionately vulnerable to exploitation and abuse, representing almost a quarter of the 25 million victims of forced labour globally. The private sector is responsible for 86 per cent of forced labour. Unscrupulous business behaviour leaves migrant workers at increased risk of exploitation due to, among others, economic pressures, the high costs of migration (often due to inflated recruitment fees), discrimination, and a lack of legal protections and access to justice in countries of destination. Evidently, despite the important role of labour migration, its full development potential is often not realized and migrant workers remain at risk of the most serious forms of human and labour rights abuses during all stages of their migration journeys.

If migration is poorly governed, it can also negatively impact on development. Migrants can be put at risk and communities can come under strain. As outlined in the [Global Compact for Safe, Orderly and Regular Migration](https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf), “migration is a multi-dimensional reality that cannot be addressed by one government policy sector alone”. IOM therefore applies a whole-of-government and whole-of-society approach to migration governance, striving to ensure that migration and migrants’ needs are considered across all policy areas, laws and regulations, from health to education and from fiscal policies to trade, ethical recruitment and responsible employment.

In the last decade, the adverse impact of unethical recruitment practices on migrants has been increasingly acknowledged, leading to multiple international, multi-stakeholder initiatives aimed at transforming international recruitment and labour markets and ending the exploitation of migrant workers that has continued to exist in many key labour migration corridors around the globe.

To this end, critical progress has been made by various stakeholder groups to better protect and respect the human rights of migrant workers in various economic sectors and migration corridors. But at the same time, there is no doubt that challenges, especially during the coronavirus pandemic are still significant and that collective efforts need to be better coordinated, sustained, and replicated to realize longer lasting and transformative change.

## Progress and Developments in Asia

The *United Nations Guiding Principles on Business and Human Rights (UNGPs)* present the first international standard on the issue of human rights and business enterprises. Considering the impact of corporate practices on labour migration and migrant workers, the UNGPs “Protect, Respect and Remedy” framework has proven to be relevant and applicable to promote migrant workers’ human and labour rights and to address widespread exploitation of migrant workers. As the primary duty bearers, Governments have the obligation to protect everyone within their territory and jurisdiction from human rights abuses committed by business enterprises, including migrant workers. All businesses have the responsibility to respect the human and labour rights of all people impacted by their business operations. Where harm has occurred, providing effective remediation is a responsibility shared by governments and businesses. In 2021, the [*UNGPs at 10+: A Roadmap for the Next Decade of Business and Human Rights*](https://www.ohchr.org/en/documents/tools-and-resources/ungps-10-roadmap-next-decade-business-and-human-rights) was developed which sets out eight key action areas and 18 goals for the road ahead and for getting progressively closer to a more complete realisation of the UNGPs.

After the adoption of the UNGPs by the UN in 2012, several countries have adopted legislations to advance the implementation of the UNGPs in international supply chains. IOM provided input to several notable policy-level outcomes in the region, which include *Malaysia’s* [*National Action Plan on Forced Labour (NAPFL) 2021-2025*](https://www.mohr.gov.my/ebook/National%20Action%20Plan%20On%20Forced%20Labour/NAPFL%202021-2025.pdf), *Thailand's* [*National Action Plan on Business and Human Rights*](https://www.undp.org/asia-pacific/bizhumanrights/publications/first-national-action-plan-business-and-human-rights-thailand), *the Philippines* [*Migrant Workers Bill*](https://legacy.senate.gov.ph/press_release/2021/1230_go1.asp), and V*iet Nam’s* [*Law on Vietnamese Guest Workers no. 69/2020/QH14*](https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11131&dvid=13). Private sector companies are increasingly influenced by consumer pressure and legislation that requires human rights due diligence to engage in protecting the rights of migrant workers. International scrutiny towards private sector human rights due diligence is increasing with regulations such as the *Australian Modern Slavery Act*, the *UK Modern Slavery Act*, the *US Without and Release Orders*, and the upcoming *EU Corporate Sustainability Due Diligence Directive (EU CSDD)*.

Several state-led, multilateral processes for policy dialogue and cooperation on migration have strongly promoted the fair and ethical recruitment agenda. The 2016 *Colombo Process Ministerial Declaration*[[1]](#endnote-2) recommends Member States to foster ethical recruitment practices. The *Fourth Ministerial Consultation of the Abu Dhabi Dialogue*[[2]](#endnote-3) declared that Member States will “continue to lend priority to regional cooperation aimed at promoting lawful, fair and transparent labour recruitment practices.”

Additionally, *the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* (Bali Process), the largest international forum for policy dialogue on trafficking issues, acknowledged the importance of involving the business sector in efforts to protect migrant workers and launched the Bali Process Government and Business Forum (GABF) in 2017. The following year business and government leaders adopted the *Acknowledge, Act Advance (AAA) Recommendations*,[[3]](#endnote-4) which outlines actions to strengthen and advance efforts to improve ethical recruitment.

In the last decade, many *private sector actors*, particularly those who are driven by reputational considerations, have been actively promoting the ethical recruitment agenda. Businesses have taken steps to respond to calls for actions[[4]](#endnote-5) to end forced labour and unethical recruitment practices. The *Employer Pays Principle* is also increasingly being endorsed by companies across a range of industry sectors and locations.[[5]](#endnote-6)

IOM promotes ethical recruitment of migrant workers through the *IRIS: Ethical Recruitment* Initiative. IRIS is a global multi-stakeholder initiative created by IOM and a coalition of partners. It supports governments, civil society, the private sector and recruiters to establish ethical recruitment as a norm in cross-border labour migration.[[6]](#endnote-7)

*Civil society organizations* have long been a driving force in the promotion of fair and ethical recruitment and have called for migrant-centered approaches in the design and implementation of ethical recruitment systems. Numerous initiatives and campaigns have been organized globally to advocate for migrant rights-based policies on fair and ethical recruitment.[[7]](#endnote-8)

## Remaining and New Challenges

Government legislation to protect the rights of migrant workers is fragmented, contains significant gaps, and is most oftentimes not aligned between countries of origin and destination. Migrant workers are often excluded from government services and justice mechanisms due to their perceived temporary nature within the country of destination. This is particularly the case for migrant workers who have migrated through irregular migration channels. Existing regular labour migration pathways fail to accommodate the overall demand for migrant workers in countries of destination and the need for gainful opportunities for workers from countries of origin. This results in high proportions of irregular labour migration and the presence of large undocumented populations in countries of destination with increased risks of exploitation. Regular labour migration and recruitment processes have been described as too complicated, lengthy and costly for migrant workers. Irregular migrant workers are highly vulnerable due to a constant risk of deportation as well as exclusion from most government services, including access to justice and grievance mechanisms.

CSOs, labour unions, and organisations representing migrant workers (including women’s organisations) play an important role in advocating for the rights of migrant workers, supporting migrant workers to gain knowledge and access to services, and empowering migrant workers to organize and participate in decisions that affect them, including the design and access to state-based justice mechanisms and corporate grievance mechanisms. However, migrant worker organizing is often banned or restricted across Asia and civil society space to engage in advocacy is shrinking.

Businesses have been facing challenges with the technical complexity of international labour recruitment processes. Supply chain monitoring carried out by multinational companies often do not include their recruitment services providers, although this is where risks of human rights violations in their supply chains are likely to increase. There is still a lack of knowledge, particularly among small and medium size enterprises on how implementation of ethical recruitment principles can be embedded in internal management systems. Employers of migrant workers do not carry out effective due diligence of their recruiters and vice versa. Also, many employers and recruiters are still not always familiar with the practical requirements under the employer pays principle (EPP).

Stigmatization and discrimination against migrants continue to be key barriers preventing the inclusion of migrant workers in the communities where they live and work. Migrant workers are often subject to scapegoating, particularly in times of crises, such as the COVID-19 pandemic.[[8]](#endnote-9) This is particularly concerning for women migrant workers as they are already grappling with multiple forms of gender-based discrimination.[[9]](#endnote-10)

Finally, grievance and remedy mechanisms to address rights violations are often non-existent, ineffective, inaccessible, or unavailable to migrants. Migrants face several barriers in accessing grievance mechanisms and remedy.

## Recommendations for Thematic Priorities in 2023-2026

Below are some selected thematic priorities of focus of UN Special Rapporteur on the Right to Development, to realize the linkages between migration and development:

* Recognize and advance the role of human mobility as an opportunity for the future and comprehensive strategy that can help reduce inequalities, adapt to the climate crisis; and that is an integral component of the renewed social contract needed to secure our future. Everyone matters and makes a difference in our achievement of global prosperity, including people on the move. In practice, this may mean supporting advocacy and operational work that contributes to ensure every migrant can fulfil his/her development potential, for instance by:
* Extending social protection and universal health coverage to all migrantss, with a specific focus on youth and women, in order to reduce inequalities and vulnerabilities and enable their active participation and contribution to societies.
* Developing safe and regular migration pathways across borders, reduce remittances transaction costs, and integrate the human and financial capital of diasporas in trade systems to boost global value chains and meet the needs for sustainable development finance.
* Investing in skills development and facilitate mutual recognition of formal and informal skills, qualifications and competences of people on the move to meet the demands and needs of a changing global labour market and divergent demographic trends among countries.
* Reducing the digital access gap for people on the move and use digitalization of economies to effectively leverage migrants and displaced persons’ entrepreneurship, including for green transition and climate action.
* Enabling environment for private sector actors to meet the UNGPs which would contribute to development. This includes harmonizing national laws and regulations and private sector policies with international standards on fair and ethical recruitment. Government policies and legislation should be strengthened to better protect the rights of migrant workers while migrant workers should be better capacitated to engage in safe migration practices to realize their potential for development.
* Migrant-worker empowerment and strengthened voice through access to knowledge on safe migration practices, support networks, trade unions, and rights-based, gender-responsive and inclusive services at all stages of migration.
* Strengthened human rights and environmental due diligence by private sector to demonstrate stronger social commitments and a capacity to manage labour migration in a responsible way in line with international standards.
* Increased access for migrant workers to state-based justice mechanisms and corporate grievance mechanisms to ensure migrant workers of all genders without discrimination experience enhanced access to effective state justice and corporate grievance mechanisms throughout all stages of migration.
1. Colombo Process (2016), “[Colombo Process Ministerial Declaration](http://www.colomboprocess.org/images/Adopted-CP-Declaration-25-Aug-2016.pdf),” p. 2. [↑](#endnote-ref-2)
2. The Abu Dhabi Dialogue (2017), “[The Fourth Ministerial Consultation of The Abu Dhabi Dialogue](http://abudhabidialogue.org.ae/sites/default/files/document-library/Colombo%20Declaration%202017.pdf),” p. 1. [↑](#endnote-ref-3)
3. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (2018) “[The Acknowledge, Act and Advance Recommendations](https://www.baliprocess.net/UserFiles/baliprocess/File/AAA%20Recommendations%281%29.pdf).” [↑](#endnote-ref-4)
4. Businesses have responded to several global appeals over the years such as the [Call for the End to Forced Labour and Unethical Recruitment](https://www.theconsumergoodsforum.com/wp-content/uploads/2018/06/2018-Social-Call-to-Action-CGF-IOM-ILO.pdf), the [Call to Action for Business Leadership on Human Rights](https://humanrights.wbcsd.org/ceo-guide-call-to-action/) and given their support for the [European Union framework on mandatory human rights and environmental due diligence](https://media.business-humanrights.org/media/documents/EU_Business_Statement_Mandatory_Due_Diligence_02092020.pdf). [↑](#endnote-ref-5)
5. No worker should pay for a job – the costs of recruitment should be not be borne by the worker but by the employer. The [Employer Pays Principle](https://www.ihrb.org/employerpays/the-employer-pays-principle) is increasingly being adopted by companies across a range of industry sectors and locations. It is endorsed by the Leadership Group for Responsible Recruitment, a collaboration between leading companies and expert organizations driving positive change in the way that migrant workers are recruited. [↑](#endnote-ref-6)
6. For more information on IRIS visit the website: [www.iris.iom.int](http://www.iris.iom.int) [↑](#endnote-ref-7)
7. Examples include [RecruitmentReform.org](http://www.recruitmentreform.org/) or the “[My Fair Home](https://idwfed.org/myfairhome)” campaign by the International Domestic Workers Federation (IDWF) and ILO. [↑](#endnote-ref-8)
8. See for example: International Organization for Migration (2020), “[Migrants and the COVID-19 pandemic: An initial analysis](https://publications.iom.int/system/files/pdf/mrs-60.pdf),” pp. 11-12. United Nations (2020), “[Policy Brief: COVID-19 and People on the Move](https://unsdg.un.org/sites/default/files/2020-06/SG-Policy-Brief-on-People-on-the-Move.pdf),” p. 19. [↑](#endnote-ref-9)
9. UN Women (2020), “[Addressing the Impacts of the Covid-19 Pandemic on Women Migrant Workers](https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/guidance-note-impacts-of-the-covid-19-pandemic-on-women-migrant-workers-en.pdf?la=en&vs=227). [↑](#endnote-ref-10)