

# Toolkit on the benefits of ratifying ILO Convention on Private Employment Agencies, 1997, No. 181



**WORLD  
EMPLOYMENT  
CONFEDERATION**  
The Voice of Labour Market Enablers

## TABLE OF CONTENTS

Background / p.1

Why should Countries ratify Convention No. 181? / p.3

Conclusion / p.9

Country Section

Bangladesh / p.9

India / p.10

Jordan / p.11

Lebanon / p.12

Nepal / p.13

## Background

The International Confederation of Private Employment Services (WEC) is the global organisation representing reputable and ethical private employment agencies. WEC calls for appropriate regulation to be adopted on the industry and strives for the highest quality standards to be adopted. Since 1967, WEC has been actively advocating for appropriate regulation of private employment agencies as a necessary precondition to enable fair competition amongst them. Regulation of the agencies can help improve the functioning of labour markets, while at the same time balance adequate protection of workers with the needs of businesses to quickly adapt to change. Recognizing the importance of these benefits, WEC has encouraged governments to ratify the ILO Convention on Private Employment Agencies, 1997 (No. 181), with 32 ratifications to date.

WEC is an implementing partner of the ILO's Fair Recruitment Initiative. It is within this context that we are pleased to offer this toolkit to help provide valuable information to explain the benefits of ratifying Convention No. 181 for governments, workers, private employment agencies and user enterprises. In addition, the toolkit articulates how the Convention can contribute to establish an appropriate regulatory framework for private employment agencies that will improve the quality of services of agencies and promote ethical recruitment practices, especially regarding recruitment and immigration. The toolkit has special editions targeted to the Initiative's focus countries: Bangladesh, India, Jordan, Lebanon and Nepal.

### FAIR RECRUITMENT INITIATIVE<sup>1</sup>

The ILO's Fair Recruitment Initiative is a multi-stakeholder endeavour where ILO constituents and key partners play a central role in the design and implementation of this initiative, such as WEC, the International Organisation of Employers (IOE) and their national members, and the International Trade Union Confederation (ITUC) and affiliates.

<sup>1</sup> Section verbatim from the Fair Recruitment Initiative web page at: <http://www.ilo.org/global/topics/fair-recruitment/lang--en/index.htm>

The Initiative is closely coordinated with the Global Migration Group (GMG) and the Inter-Agency Coordination Group against Trafficking in Persons (ICAT) agencies, in particular IOM, World Bank, OHCHR and UNODC. As well, it is currently supported by the UK Government (Department for International Development), the US Government (State Department and Department of Labor) and the Canadian Government (Foreign Affairs, Trade and Development Canada).

The aim of the Initiative is to:

- help prevent human trafficking and forced labour;
- protect the rights of workers, including migrant workers, from abusive and fraudulent practices during the recruitment process (including pre-selection, selection, transportation, placement and possibility to return);
- reduce the cost of labour migration and enhance development outcomes for migrant workers and their families, as well as for countries of origin and destination;

## CONTEXT

In today's globalized economy, workers are increasingly looking for job opportunities beyond their home country in search of decent work and better livelihoods. In addition, millions of workers migrate internally in search of decent work. Private employment agencies, when appropriately regulated, play an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers. However, concerns have been raised about the growing role of unscrupulous actors, informal labour intermediaries and other operators acting, where it exists, outside the legal and regulatory framework to profit at the expenses of workers, and especially on low-skilled ones.

WEC and its members condemn these poor practices because they do not belong to the professional industry that WEC stands for. Rogue operators exploiting workers represent unfair competition to WEC members and other ethical recruitment agencies, and they tarnish the image of the entire industry. Reported abuses of these rogue operators involve one or more of the following: 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. A combination of these abuses can amount to human trafficking and forced labour. Despite the existence of international labour standards relating to recruitment, national laws and their enforcement often fall short of protecting the rights of workers, and migrant workers in particular.

## FACTS AND FIGURES

- There are an estimated 232 million international migrants and 740 million internal migrants. Most are migrating in search for decent employment and better livelihoods.
- 21 million people are in forced labour and trafficked globally. Of the total, 44% moved either internally or internationally for work.
- Migrant workers who borrow money from third parties face an increased risk of being in forced labour.

## Why should Countries ratify Convention No. 181?

WEC recognizes that the Private Employment Agencies Convention, 1997 (No. 181) of the ILO is critical component of a well-functioning labour market as the Convention helps create good working conditions and increased protections for workers; it enables ethical employment and recruitment agencies to bring more people into employment and to make a better and faster match of labour supply and demand. It is also important in protecting human rights with regard to cross border labour migration. As a professional organization representing the interests of the employment and recruitment industry around the world, we welcome appropriate regulation of private recruitment agencies, especially through the ratification and effective implementation of Convention No. 181.

In general, Convention No. 181 helps develop the appropriate economic and legal environment in which all players in the private employment agencies industry follow the same rules and get an equal opportunity to operate. The equal playing field raises the level of good competition in the sector to enable it to improve the overall provision of quality services both to workers and to users companies while marginalizing rogue agencies and eradicating abuses. In addition, it helps workers placed by private employment agencies to achieve decent work by ensuring they are protected to international standards, with appropriate mechanisms to penalize agencies who fail to meet their obligations.

Furthermore, when bringing national regulatory framework and enforcement mechanisms in line with ILO Convention No. 181, governments can potentially help to realize employment growth through a more efficient and effective labour market. As well, it is implementing an important pillar towards achieving full, productive and freely chosen employment and eventually can help to transition informal workers into the formal economy. Governments that aim to ratify the Convention are doing so with the Sustainable Development Goals in mind, in particular towards achieving targets 8.7, 8.8, 10.7 and 10.c. Governments can avail itself of ILO technical assistance in order to help develop and execute the appropriate national legislation fitting their national context.

### RESEARCH<sup>2</sup> BY THE INDUSTRY SUPPORTS BENEFITS OF RATIFICATION

WEC's research has identified that governments which have adopted smart regulation of the employment and recruitment industry are competitive. They enjoy better functioning labour markets with job creation, higher participation and inclusion rates as well as lower levels of youth unemployment. Likewise, workers placed by private employment agencies enjoy more protection in countries that have ratified Convention No. 181. There is a positive correlation between the World Economic Forum's Global Competitiveness Index and markets that score best in terms of smart regulation of the employment and recruitment industry. By balancing flexibility with security for companies and workers alike, these countries enjoy higher levels of agency work penetration, which supports job creation and a greater range of employment forms and contracts.

WEC's recent assessment of the Convention has revealed that countries which have ratified it have seen:

1. Lower levels of informal employment and undeclared work
2. High correlation with democracy
3. Increased cooperation between public and private employment agencies

<sup>2</sup> Retrieved from Ciett at: [http://www.Ciett.org/fileadmin/templates/Ciett/docs/Position\\_papers/Ciett\\_assessment\\_C181\\_and\\_C96\\_with\\_infographics.pdf](http://www.Ciett.org/fileadmin/templates/Ciett/docs/Position_papers/Ciett_assessment_C181_and_C96_with_infographics.pdf)

4. Greater protection for freedom of association
5. Full respect for the right to strike
6. Meaningful and constructive social dialogue in the temporary agency work sector
7. Better protection of agency workers by forbidding fee-charging
8. Better wages for agency workers
9. Controlled and mitigated development of the industry

### **C181 IS A NECESSARY BUILDING BLOCK FOR EMPLOYMENT GROWTH**

The 2010 Report of the Committee of Experts on the Application of Conventions and Recommendations<sup>3</sup> indicated that there are three fundamental steps to achieving full, productive and freely chosen employment. The first step is to make a political commitment towards this goal and in this regard identified the Employment Policy Convention (No. 122) as the priority convention to do so. As well, the Declaration of Social Justice for a Fair Globalization identifies Convention No. 122 as the most significant instrument for governance of employment.

The second fundamental step is develop appropriate institutions necessary to achieve full employment and note that Conventions Nos 88 (Employment Services Convention) and 181 together form the “necessary building block for employment growth”. In particular where there is coordination of efforts as required in Article 13 of Convention No. 181. A third fundamental step is to support the training and retraining of workers, which is often done with workers engaged by reputable private recruitment agencies

It is interesting to note that there are 110 ratifications of Convention No. 122, 90 ratifications of Convention No. 88 and 32 of Convention No. 181. If governments seek the necessary building block for employment growth, this is the package of Conventions the ILO recommends to enable it yet few countries have ratified all three.

### **C181 ENCOURAGES COOPERATION OF PUBLIC-PRIVATE EMPLOYMENT SERVICES**

A major benefit to governments ratifying ILO Convention No. 181 is the flexibility in relating its provisions to national law and practice and the engagement of the social partners in doing so. Convention No. 181 recognizes the benefits of combining the complementary strengths that public and private employment agencies have. It promotes a collaborative approach to enhance labour market participation, as it calls for increased cooperation between public employment services and private employment agencies. It is important to note that both public and private employment services are key actors in the labour market and can mutually benefit from cooperation, as their common aim is to ensure a well-functioning labour market and the achievement of full employment. Such consultations and cooperation enable the government to profit from the expertise and views of the social partners, while respecting the fact that governments retain authority over employment policy and are free to determine how this cooperation is met with their input.

More specifically, Article 13 in the Convention states:  
“...in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.”

<sup>3</sup> All references throughout the document retrieved from: [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@relconf/documents/meetingdocument/wcms\\_123390.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_123390.pdf)

Cooperation can help:

- Enhance the matching of labour demand with supply
- Pooling of information
- Implement Joint skills development programmes
- Implement joint projects for the long-term unemployed
- Increase the rate of transition from unemployment to work

### **C181 ENSURES PROTECTION OF WORKERS EMPLOYED VIA PRIVATE EMPLOYMENT AGENCIES**

It is important to recall that labour is not a commodity and that there is a need to protect workers against abuses. Article 11 of the Convention requires member States to ensure that workers employed by private employment agencies are permitted protections such as Freedom of Association. Under Article 12, consultations with the social partners determine and allocate the responsibility between employment agencies and user enterprises for the following:

- Collective bargaining
- Minimum wages
- Working time and other conditions
- Statutory social security benefits
- Access to training
- Protection in occupational safety and health
- Workers compensation
- Maternity and parental protection and benefits

In addition to these, Convention No. 181 contains a general provision in Article 7 that prohibits the charging of fees or other costs, directly or indirectly, to workers<sup>4</sup>. Furthermore, it promotes user friendly written contracts of employment (per national law and practice) clearly specifying their terms and conditions of employment in local language, and the worker's assent obtained without coercion. Social Dialogue, where it is strong, is also a key element to ensure that workers served by private employment agencies are protected to international standards, as consultation with the social partners is promoted throughout the articles of the Convention. For example Article 10 of Convention No. 181 promotes the engagement of the social partners for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.

### **C181 CAN HELP REDUCE INFORMAL OR UNDECLARED WORK**

More than half to three-quarters of all non-agricultural employment in developing countries is part of the informal economy. Workers are often women, migrants and other vulnerable groups who are excluded from other opportunities<sup>5</sup>. Negative consequences for governments with large informal economies include poor competitiveness and low growth rates, incomplete coverage of formal social programmes, the undermining of social cohesion and law and order, and lost revenue from employers and workers not reporting economic activity.

Governments that seek to transition to a formal economy could benefit from ratifying and implementing Convention No. 181, as WEC research indicates that there are lower levels of undeclared work in countries which have ratified it. In addition, the guidance in the Private Employment Agencies Recommendation (No. 188) promotes the use of written contracts to formalize the relationship. Licensing private employment agencies permits the industry to work in a controlled way with government

<sup>4</sup> There is, however, a possibility to charge for certain categories of workers or specific types of services, after consultation with the social partners.

<sup>5</sup> Retrieved from: <http://www.ilo.org/global/topics/employment-promotion/informal-economy/lang--en/index.htm>

oversight, creates fair competition and separates the good from the rogue agencies that can abuse workers and avoid formal inclusion.

Article 3 of Convention No. 181 states that:

"1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.  
2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice."

### **ILO CAN OFFER TECHNICAL ASSISTANCE TO RATIFY C181**

The ILO provides technical assistance in order to help governments draft national legislation in line with Convention No. 181 and to help address issues in legislation and practice. Various national ILO programmes currently exist in order to help develop appropriate regulatory frameworks. The ILO has also produced a Guide to Private Employment Agencies<sup>6</sup> to support governments in drafting legal frameworks in line with Convention No. 181. It is a useful resource to identify potential gaps in legislation and develop solutions appropriate for national context. In addition, the Fair Recruitment Initiative is valuable resource to support the tripartite constituents with regard to the specific challenges of cross-border labour migration and fair recruitment.

### **INTERNATIONAL GUIDANCE AND CONVENTIONS ON LABOUR MIGRATION-RELATIONSHIP TO CONVENTION NO. 181**

"The failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries"<sup>7</sup>

Migrant workers provide a significant amount of income for their families in developing economies. Remittances from migrants to developing countries are estimated to have reached \$441billion, of 600 billion overall in 2015 with an estimated 250 million migrant workers globally<sup>8</sup>. With the total number of migrants increasing annually and such significant contributions to national economies, it is becoming more urgent to protect migrant workers in countries of origin and destination.

As member States of the ILO, governments should recall their commitment to the improvement of working conditions and the "protection of the interests of workers when employed in countries other than their own" as stated in the Preamble of the Constitution. Governments determine the legal framework for labour migration within their country. Some develop bilateral agreements with specific recipient countries and some integrate it in regional cooperation. Governments also have an opportunity to improve the governance of migration globally through the multi-lateral system.

Recognizing that private employment agencies have a large role to play in facilitating fair labour migration, we encourage appropriate regulatory action regarding private recruitment agencies at the national and international levels. Convention No. 181 specifically relates to the protection of migrants and such regulation is essential to eradicate abuses by rogue operators, which engage in human trafficking and/or violate rights enshrined in the ILO fundamental Conventions. Furthermore, it helps governments meet obligations under the ILO Declaration on Fundamental Principles and Rights at Work, and helps to achieve targets 8.7, 8.8, 10.7 and 10.c of the Sustainable Development Goals.

<sup>6</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/instructionalmaterial/wcms\\_083275.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/instructionalmaterial/wcms_083275.pdf)

<sup>7</sup> Preamble to the ILO Constitution

<sup>8</sup> World Bank, Migration and Remittances Factbook, Advance Edition, Washington, 2016. Retrieved from <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/4549025-1450455807487/Factbookpart1.pdf>

Private employment agencies are a facilitator of human resources management services and when properly regulated can contribute to Decent Work. With 32 ratifications to date, the ILO's Private Employment Agencies Convention, 1997 (No. 181) is part of a larger structure of coordinated international guidance and support promoting decent employment creation and a well-functioning labour market that includes the protection of migrant workers' rights with specific regard to fair recruitment. Therefore, Convention No. 181 should be seen as an important aspect of a much broader initiative of protections for migrant workers, as the elements of it, when implemented appropriately, play a major role in fair migration through an appropriately regulated private employment industry. For example:

- Convention No. 181 is good tool for governments to help meet obligations of the Declaration on Fundamental Principles and Rights at Work since the protections of workers placed by recruitment agencies regulated by the Convention are also enshrined under the commitments ILO members have in meeting goals of the Declaration:

"...declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation."

- The issue of fair recruitment and living and working conditions of migrant workers comes under the guise of the United Nations' Global Migration Group (GMG), which is an inter-agency group bringing together heads of agencies to promote the wider application of all relevant international and regional instruments and norms relating to migration. The Task Force on Migration and Decent, co-chaired by the ILO and IOM, seeks to bridge human rights (including labour rights) and the economic and development dimensions of labour migration. Ratification of Convention No. 181 by governments is an important component for the GMG given the work of the group concerns fair and ethical recruitment, living and working conditions of migrant workers, and alignment of labour migration policies with actual and projected labour market needs.
- The United Nations Convention on the Protection of All Migrant Workers and Members of their Families aims to guarantee equal treatment, including the same working conditions for migrants and nationals, and the same access to protective mechanisms. The 2010 Report of the Committee of Experts on the Application of Conventions and Recommendations noted that Article 8 of Convention No. 181 specifically draws on this Convention in order to advance the human rights of migrants.
- The ILO Multilateral Framework on Labour Migration contains principles and guidelines for a rights based approach to labour migration and Convention No. 181 is specifically identified in the Framework as helping to improve the governance, promotion and protection of migrant rights and promoting linkages between migration and development. Convention No. 181 considers issues of migrants in its guidance, as it refers to the provisions of other ILO Conventions on Migration such as No. 97 on Migration for Employment and No. 143 the Migrant Workers Convention.

Principle 13 of the Multilateral Framework specifically states: "Governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services

for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188).

In this regard, Convention No. 181 specifically:

- Provides the right to freedom of association and the right to bargain collectively
- Provides for the licensing or certification of private employment agencies by member states
- Requires member states to take steps to prevent abuse against persons placed in their territory by recruitment agencies, establish procedures to investigate complaints, and provide protection of workers

The protection of migrants recruited in the territory of a member State is a key element for worker protections under Article 8 of Convention No. 181. It requires member States to develop a legal framework with appropriate and enforceable monitoring system to protect migrant workers against abuses committed by private employment agencies. This is in line with WEC's Code of Conduct whereas we support regulation that enhances the fight against illegal practises and human trafficking.

In the 2010 Report of the Committee of Experts on the Application of Conventions and Recommendations, the Committee stated that with regard to freedom of association and collective bargaining: "the protective function of Article 4 of Convention No 181 is not forfeited when workers leave the territory of the sending state. Even in a cross-border context, these rights and principles can be invoked in relation to the private employment agency in the sending country."

## Conclusions

In closing, it is important to recall that Convention No. 181 helps to create a level playing field in the private recruitment agency sector by controlling it and creating a more socially responsible industry by marginalizing rogue agencies-especially with regard to abuses of overseas workers. It helps divide the responsibilities in delivering improved working conditions while delivering protections to international standards and accommodating diversity of national contexts. Good working conditions for workers recruited through agencies, as stipulated in the Convention, enable agencies to deliver a better protected and quality workforce that is essential to improve the general level of service offered by the agency to its clients. The ideal environment for the protection of migrant workers engaged by private employment agencies is when both countries of origin and destination ratify and implement Convention No. 181 and engage in bi-lateral agreements to ensure that protections are enforced.

### Country Section

Bangladesh

India

Jordan

Lebanon

Nepal

#### Bangladesh - Why ratify ILO Convention No. 181?

- Ratification of the Convention would improve the situation of migrant workers, as well as make Bangladesh more attractive for companies that source goods and services there, since it promotes ethical recruitment practices and would help companies in their goal for a sustainable supply chain. As, well it would help move more workers move into the formal economy and increase government revenue.
- The Bangladeshi economy relies heavily on remittances from migrant workers. According to the World Bank, remittances from migrant workers were more than USD 15 billion in 2015, about 9% of GDP. In addition, the Bangladesh to India migrant corridor is the third largest in the world. Ratifying ILO Convention No. 181 is an important measure to help improve the situation for many of the workers migrating with the help of private employment agencies, which often charge unreasonably high fees.
- A 2009 Bangladesh Household Remittance Survey conducted by the IOM found that over a half of the migrant workers from the country paid more than USD 2,000 in recruitment fees. According to a KNOMAD survey in Kuwait, recruitment fees paid by workers averaged USD 1,955 with Bangladeshis paying the highest, ranging between \$1,675 and \$5,154. Convention No. 181 promotes that fees are not paid by workers meaning more income for these workers and their families. On top of these direct fees paid to recruitment agents, migrant workers are often subjected to usurious interest rates of over 50% on loans to cover the costs of migrating and in some cases are at risk of becoming bonded labourers.
- Convention No. 181 is relevant in helping to meet basic principles and rights at work, especially those relating to the seven core conventions and the four on non-discrimination and forced labour that Bangladesh has ratified. With an unregulated private recruitment sector, abuses and discrimination can be prevalent and can prevent the government from fully realizing its obligations in these core conventions and obligations under the Declaration of Principles and Rights at work.
- Recognizing Bangladesh has ratified ILO Convention No. 96, Fee Charging Employment Agencies

Convention, it is important to highlight WEC research indicating that Convention No. 181 better enhances labour market performance and protections of workers compared to the restrictive framework of Convention No. 96. Most notably, the assessment found that countries have: Lower levels of informal and undeclared work; High correlation with democracy, More cooperation between public and private employment services; Greater protection for freedom of association; Full respect for the right to strike; Meaningful and constructive social dialogue in the temporary agency work sector; Better protection of agency workers by forbidding fee charging; Better wages for agency workers; and controlled and mitigated development of the industry.

- WEC recognizes the positive step of the Overseas Employment and Migrant Act, 2013 and the bi-lateral agreement between Jordan and Bangladesh with regard to domestic workers. However, this is limited to a small subset of workers and does not provide comprehensive protections to all workers engaged with private recruitment agencies, let alone the significant reliance of the agencies on uncontrolled sub-agents. Especially when considering the Bangladesh-India migrant corridor is the third largest in the world and Jordan is not even in the top ten countries that migrants go to. Convention No 181 is more relevant for today's global economy than Convention No. 96, which was adopted more than 67 years ago and has been denounced by 19 member States.

## India - Why ratify ILO Convention No. 181?

- Ratifying the Convention is a major and simple opportunity to reign in some informal economic activity. Per the ILO, more than 84% of Indian workers are employed in informal work, with the highest concentrations in the trade, transport, construction and manufacturing sectors. Regulating private employment agencies through the Convention can help reduce the size of the informal economy by relying on licensed private employment agencies to offer people formal employment opportunities. This will help increase the share of formal work to the detriment of informality, and therefore increase the revenues of the Government through proper reporting of economic activity as well as the payment of taxes.
- WEC recognizes the critical importance of migrant workers to India's economy as both a sending and receiving country, and the fact that the Bangladesh to India migrant corridor is the third largest in the world. Ratifying ILO Convention No. 181 is an important measure to help improve the situation for many of the workers migrating with the help of private employment agencies. The Convention not only helps to protect migrants to and from foreign countries, but the large amount of internal migrants too.
- India's economy relies heavily on the US\$ 72 billion in remittances received from migrants as according to the World Bank it is the largest remittance country in the world. But it is not just families that benefit from the income, the Government has relied on these remittances in times of need to issue diaspora bonds to help offset their balance of payment needs. It would be in the best interest of all to regulate the activities of private employment agencies in order to create fair playing field in the sector, to safeguard the workers producing this valuable source of income and ensure proper demarcation of responsibilities between the agencies and user companies.

- The Indian Staffing Federation (ISF), the Indian member of WEC, identifies that Retail, Telecom, Hospitality, Pharmaceuticals, Manufacturing, and Agriculture sectors are increasingly shifting to the flexi staffing model. Strong demand for flexi-staff is rapidly increasing in retail with substantial growth of the sector forecasted around 12% annually. This means a significant higher amount of workers going through private employment agencies that will need the social protections that Convention No. 181 offers, and additional government revenue since agency workers would be part of formal economy.
- The Convention is a necessary building block for employment growth and part of the fundamental steps to achieving full, productive and freely chosen employment. India has ratified the Employment Policy Convention, 1964 (No.122) and the Employment Services Convention, 1948 (No.88). This is a compelling argument for ratifying and implementing Convention No. 181, as the three Conventions in force would foster employment growth and help India towards achieving “full, productive and freely chosen employment” as it has set out to do when ratifying Convention No. 122.
- Convention No. 181 is relevant in helping to meet basic principles and rights at work, especially those relating to the four core conventions on non-discrimination and forced labour that India has ratified. With an unregulated private recruitment sector, abuses and discrimination can be prevalent and can prevent the government from fully realizing its obligations in these core conventions and obligations under the Declaration of Principles and Rights at work.
- WEC recognizes that India is moving forward with a review of labour legislation and in particular considering the Contract Labor Act. This is an important step and we encourage Convention No. 181 to be considered in this process. It gives India the flexibility to apply the various provisions according to the national context and in consultation with worker and employer representatives. The ISF has identified that India already has legislation on many of the provisions in the Convention, so the Government would only need to fine tune the existing Acts to explicitly address the unique staffing industry situations. The main task will be to draw a clear demarcation of the respective responsibilities of the private employment agencies and the user companies.

## Jordan - Why ratify ILO Convention No. 181?

- Regulating private employment agencies through the Convention can help reduce the size of the informal economy by licensing all agencies providing all forms of labour, including seasonal workers, to enterprises in all sectors. With a 2013 UNDP report identifying that 44% of workers were engaged in the informal economy<sup>9</sup>, a reduction could be realized through ratification of Convention No. 181 – accompanied by regulatory changes and efficient and effective enforcement – and could result in an increase in revenue through the proper reporting of economic activity. This regulation would be complementary to the “National Framework for a Transition to a Formal Economy” that Jordan initiated in 2015.
- Effective implementation of the Convention promotes ethical recruitment practices and can result in improved labour market performance, helping to improve the competitiveness of Jordanian enterprises. For example, such ethical practices facilitate a sustainable supply chain and are an important component to enhancing the competitiveness of Jordanian enterprises abroad by making Jordan more attractive for foreign companies that source goods and services there.

<sup>9</sup> <http://www.undp.org/content/dam/jordan/docs/Publications/Gov/The%20Informal%20Sector%20in%20the%20Jordanian%20Economy-jo.pdf> pg 41

- Recognizing the critical importance of migrant workers to Jordan's economy as both a country of origin and destination, ratifying and implementing ILO Convention No. 181 is an important measure to help improve the situation for many of the workers migrating to and from Jordan with the help of private employment agencies. With 10.3% of GDP being remitted by Jordanian's working abroad, regulation of private recruitment agencies sending workers overseas is critical in order to create a level playing field in the sector by controlling it and creating a more socially responsible industry by marginalizing rogue agencies-especially with regard to exploitation of overseas workers. Appropriate regulation also improves the level of service provided by Jordanian's working overseas.
- WEC recognizes that the migrant domestic workers are a vital part of the workforce in Jordan but remain at risk of being exploited and least protected groups of workers in the country, regardless of having better legal protections than most Arab states. With more than 150 private recruitment agencies specializing in the recruitment of non-Jordanian domestic workers, ratification and effective implementation of the guidance in ILO Convention No. 181 and Recommendation No. 188 are critical to develop an appropriate regulatory framework and an enforceable monitoring system to protect migrant workers from abuses by rogue agencies. Good working conditions for workers recruited through agencies, as stipulated in the Convention, enable agencies to deliver a better protected and quality workforce that is essential to improve the general level of service offered by the agency to its clients.
- The ideal environment for the protection of migrant workers recruited through private employment agencies is when both countries of origin and destination ratify and effectively implement Convention No. 181 and engage in bi-lateral agreements to ensure that protections are enforced. In particular, WEC recognizes Jordan's bi-lateral agreement with Bangladesh on domestic workers, but encourages Jordan to improve upon this by ratifying Convention No. 181 and work together with other key labour origin countries to do the same.

## Lebanon - Why ratify ILO Convention No. 181?

- Recognizing the critical importance of migrant workers to Lebanon's economy as both a country of origin and destination, ratifying ILO Convention No. 181 is an important measure to help improve the situation for many of the workers migrating to and from Lebanon with the help of private employment agencies. According to the World Bank, foreign migrants made up about 35% of Lebanon's overall population in 2013. In addition, roughly 18% of Lebanese workers left the country and sent home an estimated US\$7.5 billion in remittances in 2015 - 16% of GDP.
- This significant contribution should draw attention to the urgent need to regulate the private employment agency sector and provide appropriate regulation and monitoring of a growing number of foreign migrant workers internally and Lebanese workers externally. With regards to low skilled work, both employers and migrant workers are not pleased with current recruitment modalities as they are too costly, and often result in a mismatch between the supply and demand for skills and the expectations by migrants. Clear and unambiguous regulation along with monitoring and enforcement would contribute to more efficient recruitment with higher satisfaction by all.
- Lebanon has ratified seven of the eight core labour standards and has reported to the ILO that there are prospects for ratifying Convention No. 181, which is highly relevant in helping to meet these basic principles and rights at work in the core conventions. Especially those relating to non-discrimination

and forced labour. With an unregulated private recruitment sector, abuses and discrimination can be prevalent and can prevent the government from fully realizing its obligations in the core conventions, especially regarding migrant workers in domestic work.

- Appropriate regulation of private employment agencies permits the industry to have a fair playing field and helps realize a well-functioning national labour market through increased cooperation between public employment services and private employment agencies. The Syndicate of the Owners of Recruitment Agencies in Lebanon (SORAL) have developed their own Code of Conduct inspired by ILO and UN Human Rights Conventions. However, this is voluntary and ratification of the Convention – along with regulatory changes and enforcement in line with the Convention – would be the appropriate measure for sector to operate more effectively.
- The Convention is a critical step towards achieving full, productive and freely chosen employment. Lebanon has ratified the Employment Policy Convention, 1964 (No.122) and the Employment Services Convention, 1948 (No.88). This is a compelling argument for ratifying and implementing Convention No. 181, as the three Conventions in force would foster employment growth and help Lebanon towards achieving “full, productive and freely chosen employment” as it has set out to do when ratifying Convention No. 122.
- Regulating private employment agencies through the Convention can help reduce the size of the informal economy by licensing all agencies providing labour, including seasonal workers, to enterprises in sectors where it is prevalent. With the IMF estimating the size of the informal economy to be more than 30% of GDP, a sizeable reduction could be realized through ratification of Convention No. 181 – accompanied by regulatory changes and efficient and effective enforcement – and could result in an increase in revenue through the proper reporting of economic activity.
- The ideal environment for the protection of migrant workers engaged by private employment agencies is when both countries of origin and destination ratify and implement Convention No. 181 and engage in bi-lateral agreements to ensure that protections are enforced.

### Nepal - Why ratify ILO Convention No. 181?

- Recognizing the critical importance that migrant workers have on increasing household income and Nepal’s economy overall, ratifying ILO Convention No. 181 is an important measure to help further improve the situation for the workers migrating with the help of private employment agencies. There have been more than 2.72 million labour permits issued over the six-years from 2009 to 2015. This is about 8% of Nepal’s total population<sup>10</sup>, who according to the World Bank, sent back an estimated 29% of Nepal’s GDP in remittances. Furthermore, the government has issued diaspora bonds based on these remittances to offset their balance of payment needs.
- All of the following points below are positive steps towards the protection of migrant workers, but the legislation does not protect all workers from rogue agencies or instil all protections granted under the Convention. Therefore, ratifying Convention No. 181 would be a useful addition to the migrant worker legislation in order to provide worker’s protections to international standards for all workers, migrants and locals that are engaged by private employment agencies. In addition, it could help move more workers into the formal local economy and increase government revenue.

<sup>10</sup> Government of Nepal, *Labour Migration for Employment A Status Report for Nepal 2014/15*.

- WEC recognizes and supports the Government's legislation pertaining to private employment agencies and foreign employment. For example, the Foreign Employment Act, 2007 and accompanying Regulations in 2008, which licenses foreign employment agencies and provides worker benefits. In addition, grievance procedures and enforcement mechanisms are in place as a few recruitment agencies have lost their licence due to non-compliance with the Act.
- WEC supports recent regulations that reduce the fees that can be charged to workers and shifts the cost of the travel ticket and of the visa to the user companies of the countries of the Gulf Cooperation Council and Malaysia. This is a first and bold step towards the no-fee charging model and hopefully towards more enhanced protection of Nepalese workers abroad and towards the ratification of Convention No. 181.
- WEC welcomes the guidelines relating to the management of domestic workers going on foreign employment, 2015. This requires a bilateral agreement/Memorandum of understanding between Nepal and the recipient country concerning domestic workers that can only be contracted through licensed agencies. The licensed agency is also not allowed to charge any fee or collected any money from the domestic work. It must also register with the Nepali embassy in the host country and submit a deposit for the coverage of wages.



#### About World Employment Confederation

As the international confederation of private employment services, WEC is the authoritative voice representing the interests of the employment and recruitment industry across the world.

Founded in 1967, WEC consists of 50 national federations of private employment agencies and eight of the largest staffing companies worldwide: Adecco, GI Group, Kelly Services, Manpower Group, Randstad, Recruit, Trenkwalder and USG People.

Its members provide 71,9 million workers with access to the labour market each year, 67 million of whom work in agency work. Worldwide, over 1.6 million people work in an employment or recruitment agency.

The employment and recruitment industry is leading in a changing world of work. It does so by acting as enablers of the labour market, offering a full range of HR services: agency work, recruitment, career management, and RPO/MSP services. The industry enables work, enables adaptation, enables security, and enables prosperity.

WEC's main objective is to help its members conduct their businesses in a legal and regulatory environment that is positive and supportive.

WEC is divided into six regional organisations: Africa/Near East, Northern Asia, Southern Asia, North America, South America, and Europe.

#### World Employment Confederation

Tour & Taxi Building,  
Avenue du Port 86c,  
Box 302 - B-1000 Brussels

T +32 2 421 15 85  
[info@wecglobal.org](mailto:info@wecglobal.org)  
[www.wecglobal.org](http://www.wecglobal.org)