

IRIS Handbook for
Governments on Ethical
Recruitment and Migrant
Worker Protection

3

STRENGTHENING THE EFFECTIVENESS OF INSPECTORATES

Empowering and protecting migrant
workers in the inspection process

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Introduction and scope

Inspectorates play a critical role in the promotion, monitoring, and enforcement of ethical recruitment – they ensure that laws on paper are enforced in practice.¹ They are also often the first and only contact that migrant workers have with a government body responsible for protecting their rights. As such, this publication provides global guidance on how to strengthen the effectiveness of relevant inspectorates in this capacity, with special attention to empowering and protecting migrant workers throughout the inspection process.

In terms of scope, guidance broadly concerns inspectorates involved in verifying compliance with rules of regulated actors and entities in the international private labour recruitment process, not restricted to any specific sector nor limited to any one stage of the process. This includes oversight of private recruiters, and depending on the jurisdiction, it may also include employers.² Given the range of governance models implicated in international labour recruitment worldwide, this guidance is intended to **inform the various types of inspectorates** along this spectrum of mandate (i.e. verifying compliance of recruiters, employers, or both), with precise guidance noted as applicable throughout the chapter.

Unless otherwise noted, guidance can be applied in countries of origin, transit, and destination. It is intended for government officials in their capacities as inspectors at various levels of administration (national, subnational) and across relevant portfolios (such authorities often fall under ministries responsible for labour and employment, consumer protection, or migration). Since relevant portfolios differ worldwide, recommendations are addressed to “designated inspectorates” or simply “inspectorates” and “inspection officers” throughout the document for ease of reference. Guidance is not limited to labour inspectorates and is intended for the various range of mandated authorities involved in enforcing laws that protect migrant workers. Other front-line public authorities that interact directly with migrant workers may also find this guidance useful.

It is worth noting that this product is not an exhaustive nor comprehensive guidance product for all aspects necessary to establish and administer an effective inspectorate. Rather it undertakes a deliberate focus on **migrant-sensitive institutional features and inspection methods** to ensure that migrant workers are empowered and protected during the inspection process. Case study examples are highlighted to demonstrate the practical ways in which different governments are taking concrete relevant action worldwide. It is expected that these practical recommendations can be integrated into the standard operating procedures of inspectorates and relevant training programmes for inspectors.

¹ Note that “promotion” here captures informational and educational activities related to promoting awareness of rights and obligations, as opposed to promotion of jobs and employment opportunities, as performed by public employment service authorities.

² In some jurisdictions, the same inspectorate – most commonly a labour inspectorate – may be mandated to inspect both recruiters and employers of migrant workers. In others, a licensing authority may be established for the sole purpose of inspecting labour recruiters, without oversight of employers. This is highly dependent on context (e.g. country of origin or destination) and legal authorities in the respective regulatory framework.

This chapter should be considered closely with other relevant chapters of the broader *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection* (hereafter the IRIS Handbook). For example, [Chapter 1: Adopting a Rights-Based Regulatory Approach to International Labour Recruitment](#), provides guidance on how to regulate recruiters, including the necessary regulatory authorities that should be in place for effective enforcement by inspectorates. This chapter builds on this regulatory framework with additional operational and administrative guidance.

The IRIS Handbook builds on [The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation](#): a set of 49 practical and targeted recommendations for governments on recruitment and migrant worker protection.³ The Montreal Recommendations were co-created by 100 regulators from over 30 countries at the Global Conference on the Regulation of International Recruitment in Montreal, Canada in June 2019. This chapter draws attention to select recommendations that implicate inspections and enforcement and expands on each by providing more detailed measures for governments to consider.

³ The Montreal Recommendations also include 6 recommendations to IOM and the international community (see policy area: “Maintaining the momentum on regulation”) for a total of 55 recommendations.



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1 Setting up an effective inspectorate in law and practice

In order to enable effective monitoring and enforcement of relevant ethical recruitment regulations, the designated inspectorate itself should be set up with appropriate features in law and practice. These features, discussed below, ensure that the inspectorate can act in the interest of the rights of migrant workers.

Clear rights-based regulatory framework

As detailed in *Chapter 1 of the IRIS Handbook*, the effective enforcement of recruitment regulation must be enabled by a strong foundation in law. This involves enshrining a well-defined institutional framework, with a clear mandate to undertake inspections to promote and enforce compliance with the law, enabling cooperation provisions, a range of sanctions in case of non-compliance with rules, transparency and accountability measures, and accessible grievance mechanisms.⁴

⁴ See *Chapter 1: Adopting a Rights-Based Regulatory Approach to International Labour Recruitment* (Section 3) of the IRIS Handbook for further detail.

The scope and functions of the designated inspectorate should also be clearly prescribed, emphasizing the fundamental objectives of their activities, to ensure the protection of migrant worker rights and that recruitment, and employment if applicable, is carried out ethically and within relevant laws and regulations. The inspectorate should accordingly be mandated in law to accept and investigate complaints and be enabled with powers to proactively inspect relevant actors in the recruitment process.

ILO Guidelines on general principles of labour inspection

Labour inspectorates play a prominent and key role in the ethical recruitment and migrant worker protection landscape. As such, governments should ratify and adopt international labour standards on labour inspections. Relevant instruments include ILO Labour Inspection Convention, 1947 (No. 81), ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129), ILO Labour Inspection (Seafarers) Convention (No. 178) and ILO Labour Inspection Recommendation, 1923 (No. 20), all of which bear significant importance when establishing effective labour inspection governance.

For comprehensive guidance on the administration of labour inspections, beyond the scope of this publication, relevant authorities should also consult the [ILO Guidelines on general principles of labour inspection](#) which provides non-binding detailed technical guidance on key principles contained in ILO Conventions Nos. 81 and 129 and ILO Recommendation No. 20. A wide range of matters related to mandate, scope, and functions of labour inspectorates; collaboration and cooperation; policy, planning, and monitoring, including reporting, human resources, training; power and methods of inspections, and enforcement measures are detailed therein.

Comprehensive monitoring and enforcement strategy

Inspectorates are encouraged to plan and develop a comprehensive monitoring and enforcement strategy to foster and ensure a culture of compliance with the law. A strategy of this kind should encompass the components listed in Figure 1 and discussed below.

Figure 1. Key components of a comprehensive monitoring and enforcement strategy



Promotion

Montreal Recommendation

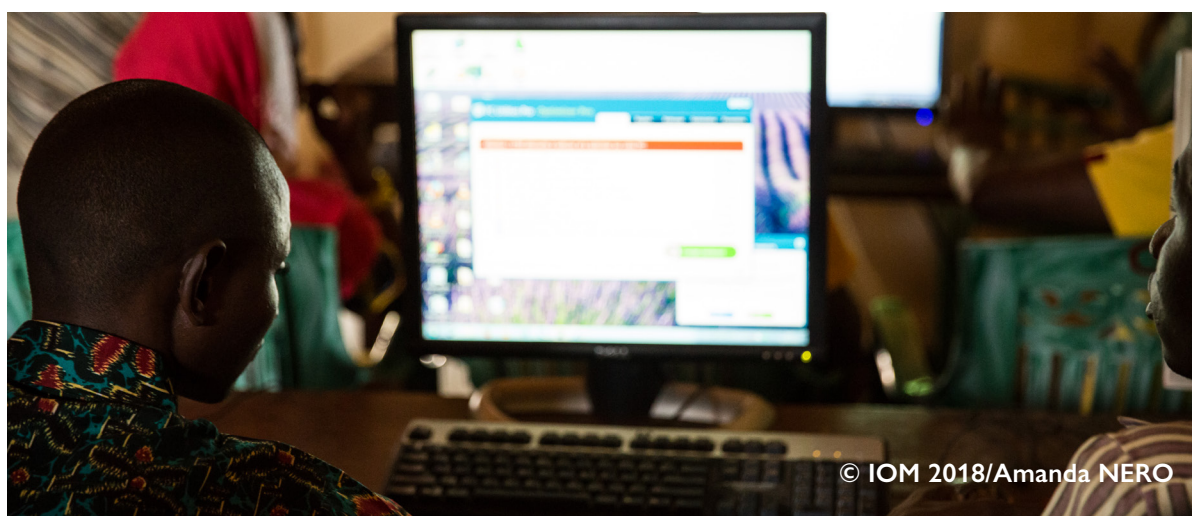
27. Governments are encouraged to reinforce enforcement efforts by implementing comprehensive and ongoing programmes to raise public awareness about the risks of unethical recruitment and irregular migration.

The promotion of compliance should involve informational and educational activities for all relevant actors on their respective rights and obligations. Targeted outreach can involve holding free **online webinars** or **in-person workshops** for recruiters and employers to explain and clarify their legal obligations and the potential consequences of non-compliance. **Informational manuals** and **codes of practice** may also be developed using plain language explanations of the meaning of relevant laws and regulations, important links to government sites, and contact information for further clarification.⁵

United Kingdom – Gangmasters and Labour Abuse Authority Code of Practice

As a useful informational instrument, the Gangmasters and Labour Abuse Authority (GLAA) in the United Kingdom publishes a [Code of Practice](#) on compliance, enforcement, labour market and modern slavery investigations. It is issued to persons who are the subject of GLAA compliance and enforcement enquiries, including wider labour market investigations.

In plain language, the Code explains the legislative powers of GLAA officers and their extent, how GLAA officers should conduct themselves, the rights of those from whom the GLAA may seek information, what a licence holder, or those who may be the subject of a request for information, may be required to do, the additional powers in an enforcement enquiry, the wider powers in labour market investigations and how to complain if dissatisfied with the way GLAA activity has been conducted.



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⁵ For specific guidance and examples of awareness-raising and training options in recruiter licensing frameworks, see *Chapter 2: Implementing and improving licensing frameworks* (Section 1) of the IRIS Handbook.

Montreal Recommendation

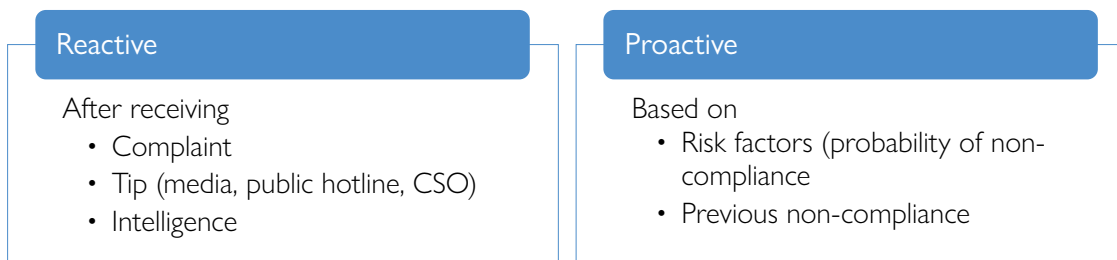
37. Governments should produce multilanguage leaflets, posters, mobile phone applications and non-text-based resources, such as videos and podcasts to distribute pre- and post-arrival (available in airports, community spaces and government offices) that inform migrants how to access grievance mechanisms and what help they can receive. These resources should also inform migrants about what evidence should be collected (such as wage slips and contracts) to support a resulting claim.

Distinct outreach should also be conducted with migrant workers to inform them of their rights, how to report rights violations, and how to access remedy including the use of administrative complaint mechanisms (e.g. by providing examples of potential evidence that could support a claim). Inspectorates may also consider partnering with third parties such as industry associations (for recruiters and employers) as well as civil society organizations (CSOs) and trade unions that support or represent migrant workers to increase the reach of informational products and education materials. Materials should be translated to migrant worker languages and/or adapted to non-text mediums to mitigate literacy barriers.

Reactive and proactive approaches

Inspectorates must be empowered to conduct **inspections** and/or **investigations**⁶ to determine whether laws have been violated. This should involve both reactive and proactive approaches.

Figure 2: Scenarios that trigger reactive and proactive approaches



Reactive inspections or investigations are generally unplanned because they are determined or “triggered” by external events that allege a violation of law. This information may come from **complaints, tips, or intelligence**; in many enforcement models, reactive activities are primarily complaint driven. Actioning complaints is crucial for an effective enforcement regime because it provides a means for migrant workers experiencing rights violations to file a complaint or claim for their rights and access recourse. However, due to the myriad **risks and barriers** that migrant workers face in filing a complaint, proactive approaches should also be adopted.

⁶ In some jurisdictions, **inspections** and **investigations** are distinct legal processes. This may include differences between the purpose of the process; triggers and notice associated with the process; the powers and obligations of inspectors and investigators; and the implications (including rights) for the entities and individuals participating in the process. For example, in Canada, regulatory investigations, as compared to inspections, can involve collecting evidence to support charges/prosecution in the courts and accordingly engage the penal interest of the regulated entity (conferring additional constitutional procedural safeguards).

Proactive inspections are planned activities that are typically conducted based on a risk-based approach. Using **risk-based analysis**, inspectorates allocate resources to proactively inspect entities where violations are known to be relatively more prevalent and where migrant workers are more reluctant to file a complaint. Risk-based analysis should utilize both quantitative data from previous non-compliance findings and qualitative intelligence to determine where there may be a higher probability of non-compliance with the law, particularly where violations result in serious harm to migrant workers. This analysis may consider: sectors and occupations where there are higher concentrations of migrant workers recruited (e.g. agriculture, construction, domestic work);⁷ higher incidences of operation in the informal economy; precarity of working conditions; and gender, among other factors. Using this analysis, proactive inspections are planned and prioritized in a targeted manner, the higher the risk of non-compliance, the more frequent and likely an inspection is triggered.

Reactive and proactive approaches should not exist without the other. Strategies that rely on only complaint-driven (reactive) approaches are less effective at influencing behaviour at systemic levels, and conversely, relying on only proactive approaches discounts the need for action when migrant workers report a violation. Inspectorates should be broadly empowered to trigger an inspection or investigation in both reactive and proactive circumstances, and operational resources should balance both approaches to ensure a comprehensive compliance strategy.

It is finally worth noting the ways in which inspectorates can integrate both approaches, for example where an inspection is triggered in response to an isolated complaint and then the inspectorate **expands the inspection or investigation** to apply to all applicable regulatory conditions (i.e. beyond the specific violation) or to all potentially implicated migrant workers. Inspectorates should develop procedures to expand an inspection or investigation in this manner when there is a reason to believe that the violation cited in the complaint may involve more widespread and systemic non-compliance. This may involve notifying other agencies and authorities, including cross-border international cooperation, as discussed [below](#).

Enforcement

A core responsibility for inspectorates is the enforcement of compliance – to encourage, and if necessary, compel, compliance with relevant rules and regulations. When non-compliance is found, inspectorates should be empowered to take compliance actions appropriate to the circumstances.

Inspectorates should be empowered to use both **restitution** and **deterrence** enforcement measures. Restitution is critical for migrant worker protection because it ensures that outcomes of inspections materially improve their situation, for example through a compensation order. Without recourse and restitution measures in place, migrant workers are much less likely to report and get involved in any inspection process, weakening the integrity of compliance findings and evidence base that informs broader inspection planning. Deterrence measures, on the other hand, broadly involve consequences

⁷ It is worth noting that migrant domestic workers are predominately women who perform work in or for a **private household** and at times these workers also live in the home of their employer. Given their special and uniquely vulnerable circumstances, inspectorates should consult targeted guidance on how to address non-compliance such as the ILO's *Labour inspection and other compliance mechanisms in the domestic work sector: Introductory guide*.

for wrongdoing, for example where a non-compliant recruiter or employer faces administrative penalties or sanctions as a consequence for violating the law.

As discussed in [Chapter 1 of the IRIS Handbook](#), consequences for non-compliance should be proportionate to the contravention, accounting for considerations like:

- the impact of the violation on affected migrant workers;
- the scale of economic benefit derived from the violation;
- if the recruiter or employer made reasonable efforts to remediate the violation; and
- the compliance history (e.g. first or subsequent violation).

As such, the form and severity of the consequence should reflect the nature of the violation. In case of criminal sanctions, inspectorates often rely on other law enforcement bodies to initiate arrests or prosecutions through the courts (e.g. police, prosecutors, etc.) and referral and cooperation mechanisms should be accordingly instituted.

Finally, inspectorates should have clear procedures in place to share inspection outcomes publicly.⁸ Benefits include instilling public trust and migrant worker empowerment in the enforcement system, particularly for workers who filed complaints and are afforded transparency with a publicized outcome.

Sufficient operational resources

Montreal Recommendation

16. Governments should strengthen and adequately resource labour inspectorates and other relevant inspection authorities and ensure that they are effective in investigating all stages of the recruitment process.

Operationally, inspectorates need **adequate funding** to carry out their prescribed mandate. Ongoing resources should be committed to the successful operation of inspection and investigation activities, including sufficient human resource and training needs (including decent salary to prevent corruption), public awareness and education activities, planning and reporting, and costs related to transportation, interpretation and office expenses.

Consistency in process and decision-making

It is essential that inspectorates **consistently** apply and enforce their mandate and applicable laws. As inspections and the enforcement of law are processes that occur in many locations within a given jurisdiction, over time, and by different inspection officers, excessive variations in application should be anticipated and proactively minimized. Discrepancies that may result from individual discretion in decision-making should also be mitigated through common technical criteria to support similar inspections and results for similar breaches in law.

⁸ For example, Service Alberta updates an online [Business Enforcement Search Tool](#) that enable the public to see if an employment agency was charged, convicted, had a licence suspension or cancellation, was issued a notice of administrative penalty or director's order, or entered into an undertaking under the *Consumer Protection Act*. The tool can populate enforcement actions by business name, by year of occurrence, or by the type of enforcement action.

It is also worth noting that relevant laws may differ between countries of origin and destination along a labour migration corridor, which can add a distinct layer of potential discrepancy for migrant worker protection. As discussed [below](#), inspectorates should work with other government counterparts to better understand other jurisdictional contexts and to develop improved policy coherence strategies. Regional bodies, such as regional economic communities, can play a role in this process towards harmonizing standards and procedures where possible.

As such, inspectorates are encouraged to develop operational guidelines that provide more detailed interpretations of the regulatory framework in the form of clear **standard operating procedures** or **enforcement manuals** for inspection officers to follow. These products should be adapted to include migrant-sensitive instructions, including special interview techniques and firewall protections (as discussed [below](#)). Operational guidelines can provide increased consistency and by consequence, trust in the integrity of processes and decision-making. Where discrepancies are observed, policy analysis and legal advice may inform updated procedures and guidance on the ground. Inspectorates may also consider developing checklists for inspection visits to help maintain some consistency in application of the rules. If implementing a checklist, however, it should be clear that they should not be used as an exclusive tool during an inspection. This clarification is important to mitigate the risk of officers becoming too focused on specific checklist items and missing other important signs of infringements or danger as a result.

Operational consistency should also involve a centralized internal reporting system to ensure even and predictable data collection. Data specific to migrant workers, including country of origin, should be captured. Over time, these data can improve and refine inspection selection and targeted resource utilization, for example to inform risk-based analysis, as discussed [above](#).

Specialized capacity and training

Inspectorates should also consider developing **specialized capacity and designated officials**, either within existing operational bodies or by creating standalone and independent units, to foster expertise in the subject area. For example, if the mandate to enforce recruiter obligations falls under a labour inspectorates' purview, authorities may consider designating specific officers within the unit to carry out the mandate, or they may create a specialized unit to do so. This approach can further ensure consistency in decision-making as opposed to officers who undertake various business lines and enforce multiple sets of legislation. Officers with appropriate language profiles may be recruited to ensure improved communication with migrant workers, where interpretation would otherwise be necessary. Given the complex nature of international recruitment processes and the severity of abusive and fraudulent recruitment practices, particularly where the latter can result in forced labour or trafficking in persons, specialized capacity is vital.

Mauritius – Special Migrant Workers Unit

In 1999, the Ministry of Labour, Human Resource Development and Training in Mauritius established a Special Migrant Workers Unit (SMWU) to monitor the terms and conditions of migrant worker employment in Mauritius and ensure that their rights are respected. Initially comprised of three dedicated officers, the SMWU has since expanded capacity to 9 officers as of 2022, with additional recruitment planned. This has enabled a three-fold increase in the numbers of inspections of workplaces where migrant workers are employed, with concrete outcomes for workers, including recovery of wages. SMWU undertakes a wide range of compliance promotion, monitoring and enforcement activities with migrant workers, including:

- verifying and vetting of their contracts of employment, prior to their arrival in Mauritius;
- carrying out of routine inspections and follow-up visits at the workplace at regular intervals to verify that the terms and conditions of employment are being strictly complied with;
- verifying that they are fully conversant with terms and conditions of their vetted contract of employment;
- verifying that there exists an efficient means of communication at the level of the enterprise where their grievances may be discussed and settled as appropriate;
- education sessions in the course of inspections to inform them of their rights and responsibilities including their rights to join a trade union of their choice;
- registering of complaints regarding breach of provisions of the legislations or any term and conditions of employment of their vetted contract of employment or any other issues regarding their conditions of work in Mauritius.

At the time of writing, the Ministry was also finalizing the establishment of a **one-stop shop** where all issues relating to migrant workers can be addressed in a central location.

Specialized training for inspection officers is also highly recommended, with a focus on the special circumstances migrant workers are in during the recruitment process, and how to engage migrant workers safely and without harm in this context. Having specialized knowledge of signs and red flags of forced labour is also important to ensure that migrant workers can be promptly and safely assisted in such circumstances. Inspectorates may seek support from international organizations that provide capacity-building programmes to inform the training agenda.⁹

Topics may include:

- Identification of red flags and signs of forced labour and human trafficking;
- Abusive recruitment practices and the collection and cross-checking of relevant evidence for labour, civil, and criminal jurisdictions respectively;
- Risks and barriers that migrant workers face in filing a complaint and participating in inspections;
- Migrant-sensitive interview techniques and approaches;
- Protecting inspectors from threats and reprisals.

⁹ For example, IOM offers the IRIS government training programme which is designed for policymakers, licensing authorities, regulators and enforcement authorities involved in the facilitation of international labour recruitment. Training modules include "Introduction to IRIS: Ethical Recruitment"; "Introduction to the Montreal Recommendations"; "Recruitment Regulation"; "Recruitment Monitoring by Inspectorates"; "Promotion of Ethical Recruitment by Labour Attachés". Each module is available for classroom and online delivery and involves a combination of short lecture-style presentations, group discussions, and exercises.

Joint and collaborative approaches with other government counterparts

Montreal Recommendation

20. Governments should facilitate the introduction of information-sharing protocols between relevant departments and levels of government to maximize the potential for increasing intelligence about the international recruitment industry.

As explored in [Chapter 1 of the IRIS Handbook](#), inspectorates should be empowered with the authority to share information and intelligence under inter- and intra-State cooperation mechanisms. Inspectorates are encouraged to pursue formal **information-sharing agreements** with other relevant departments domestically (national, subnational and local levels). Relevant departments often span a wide range of sectors and portfolios given the many actors involved in labour migration. For example, where labour inspectorates are responsible for working conditions and the licensing of recruitment agencies, they can benefit from collaborating with tax and social insurance authorities, and ministries responsible for relevant economic sectors (e.g. agriculture) and health. These may take the form of **joint inspection teams** where resources are efficiently combined and gaps in expertise are mitigated. As inspections discussed here are concerned with migrant worker protection, collaboration with immigration and/or border enforcement authorities should be limited to assisting migrant workers with permits and regularization of status when necessary.

It is worth noting that where there are signs of criminal activity, administrative inspectorates must ensure that referral and information sharing mechanisms with appropriate criminal law enforcement bodies (e.g. police and/or prosecutor) are clearly established and undertaken.

Finally, international collaboration via formal **bilateral, regional and multilateral cooperation**, such as bilateral labour migration agreements, should also include information sharing provisions and the roles and duties of respective inspectorates in both jurisdictions. The primary objectives of cooperative protocols should be to improve migrant worker protection outcomes; strengthen the integrity of inspection findings; and strengthen efficiency of resources. Less formal approaches may be required to initially locate and contact government counterparts in respective portfolios in the other country context, towards the goal of pursuing such formal information and intelligence sharing protocols.¹⁰

¹⁰ For more on enhancing ethical recruitment through bilateral, regional and multilateral mechanisms, see IRIS Handbook Chapter 4: Advancing inter-State cooperation.

Norway - Norwegian Labour Inspection Authority intra- and inter-State collaboration

The Norwegian Labour Inspection Authority undertakes both intra- and inter-State collaborative activities to better inform and assist migrant workers in Norway. Domestically, the National Labour Inspection Authority operates in cooperation with the police, the tax administration, and the Norwegian Directorate of Immigration to provide consolidated advice at the [Service Centre for Foreign Workers](#). This multi-agency operation provides a one-stop centre for migrant workers to receive multilingual information and assistance on everything they need with respect to working in Norway.

The Norwegian Labour Inspection Authority has also signed bilateral agreements with counterparts in key migrant worker countries of origin, including Bulgaria, Estonia, Latvia, Lithuania, Poland and Romania. The objective of this collaboration is three-fold: to undertake inspections, share good practices and conduct information activities for migrant workers and companies operating in Norway. Most recently, this facilitated a **Know Your Rights information campaign** to empower migrant workers to file complaints and report exploitation. Relying on research, external experts, and labour inspectorate knowledge from all implicated countries, the campaign identified target groups and multilingual communication strategies. The use of social media and technology were leveraged, involving targeted advertisements in 40 different Facebook groups where migrant workers were active, as well as the use of a QR code to direct users to relevant the [government website](#). The information campaign has since increased the number of contacts to the call centre, compliance tips and signals.



2 Migrant-sensitive inspection approaches and methods

Inspections and investigations are a means to verify and enforce recruiter and/or employer compliance with the law and protect the rights of migrant workers. These activities involve collecting and triangulating evidence to support a determination or finding of compliance or non-compliance. The integrity of inspection findings relies on a complete picture with all relevant actors – a 360-degree view – including meaningful engagement with migrant workers. However, migrant workers often face many risks and barriers when speaking to authorities, particularly if they are in a situation of abuse or exploitation.

As such, this section discusses how to make the inspection process sensitive to these realities. This is to both **empower** migrant workers and create a **sense of safety and trust** so that they feel comfortable with their involvement in an inspection or investigation. With the protection of migrant worker rights in mind, several approaches, methods, and tools adapted to these special circumstances are recommended below.

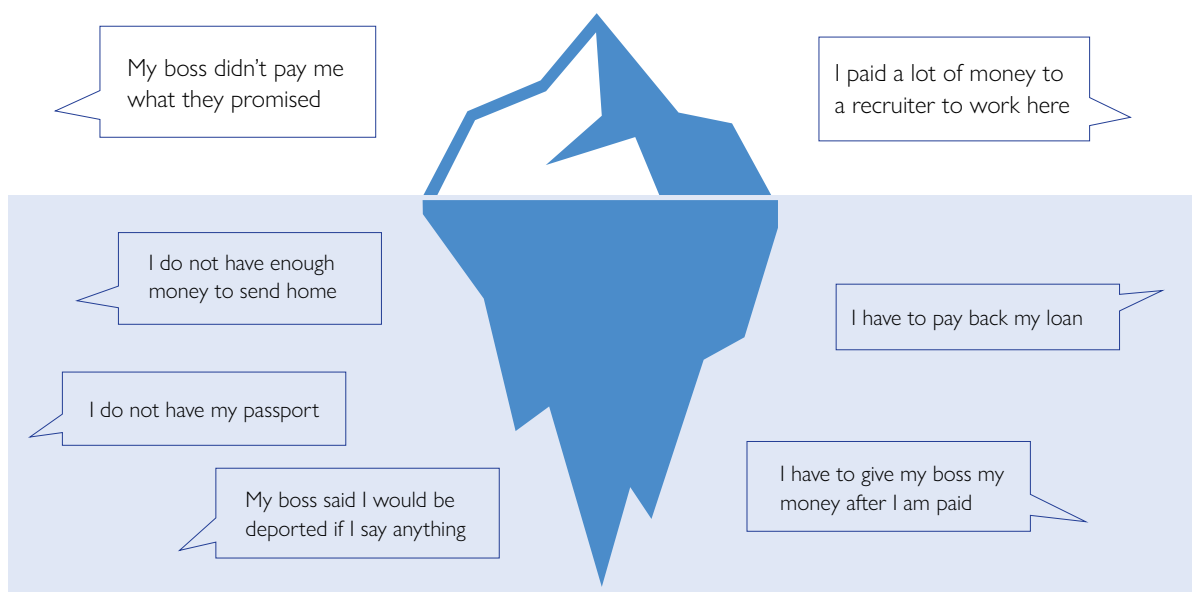
Reasons for non-reporting and reluctance to engage authorities

It is important that inspectors are first **sensitized to the risks and structural barriers** that migrant workers experience with respect to engagement, whether it is to contact the relevant inspectorate independently for information, file an administrative complaint, or participate in an inspection or interview. Factors that make workers reluctant to share their experiences, especially if reporting abuse or exploitation include:

- Perceived and real risks of **reprisal** and **adverse consequences** for themselves or their co-workers, such as:
 - Loss of job and livelihood
 - Worsened working conditions
 - Other threats or reprisal against themselves or family
 - Inability for them and their families to pay off recruitment debt
 - Negative immigration-related outcomes due to employer-tied nature of visa and work permit or employer-sponsored prospect of permanent residence for themselves and their family
 - Immigration detention
 - Deportation
- Geographic or social **isolation** and lack of transportation means
- **Literacy, language, and cultural barriers**
- Lack of knowledge on **rights** and **how to seek recourse**
- Lack of access to **resources, supports, and services**
- Lack of access to **phone, computer, internet access, and digital technologies in general**
- Lack of **time** and/or **financial means**
- **Distrust** in public authorities
- **Psychological distress** due to fear of law enforcement, being re-victimized or re-traumatized, and fear that they will not be believed

Unfortunately, these risks and barriers are often too high and insurmountable for many migrant workers, resulting in some never coming forward or filing a complaint. For migrant workers who do manage to bring forward a complaint or participate in an inspection, these factors are ever-present and similarly influence how, and to what degree, they share information and their experience (as depicted in Figure 3).

Figure 3: Under the surface of migrant worker complaints



Inspection processes must therefore be oriented towards reducing and mitigating these barriers and maximizing accessibility and migrant worker voice. This includes ensuring that inspectors are **trained** and **aware** of these complex dynamics ahead of undertaking any relevant inspection and speaking to migrant workers.

Canada – Trauma-informed training for immigration officers

A notable migrant-sensitive training measure is one delivered under the [Open Work Permit for Vulnerable Workers](#) (OWP-V) programme in Canada. The OWP-V programme enables migrant workers on employer-specific work permits to apply for an open work permit if they are in abusive work situations. In response to feedback gathered during consultations with migrant workers and their advocates, who shared that the application process could be complex, burdensome, and sometimes re-traumatizing for clients, Immigration, Refugees and Citizenship Canada developed a trauma-informed training initiative for the immigration officers who process OWP-V applications.

This unique training provides immigration officers with the tools to assess OWP-V applications through a **trauma-informed** lens which involves acknowledging and being sensitive towards the impact of potential trauma on migrant workers throughout the OWP-V process. A trauma-informed approach emphasizes **collaboration** with the client, prioritizes **safety and trust** and aims to facilitate a **sense of control and empowerment**.

The purpose of the training is to make the OWP-V assessment process more supportive for migrant workers, and to help officers make sound decisions with often limited evidence. For example, the training provides officers with a clear understanding of the vulnerabilities and challenges experienced by migrant workers and the trade-offs they face when coming forward about workplace abuse. It provides officers with concrete tools for assessing when more information is required, and for applying trauma-informed approaches during interviews. The training also outlines a framework to improve the consistency of decision-making by providing officers with tools to streamline the assessment of applications.

Creating facilitative conditions for migrant workers

Inspectorates should foster institutional conditions that ensure migrant workers feel safe and comfortable to come forward, whether to request information on their rights, file a complaint, or participate in an inspection process. Several features that enable these conditions are discussed below.

Establishing a complaint mechanism and anonymous hotline

Montreal Recommendation

19. Governments should establish an anonymous, multilingual national (or subnational if more appropriate) reporting “hotline” to identify non-compliance of recruiters, as well as identify illegal recruiters.

Migrant workers need accessible means and channels to contact inspection authorities, particularly in case of reporting abusive or fraudulent recruitment practices. As discussed in [Chapter 1 of the IRIS Handbook](#), the right to a formal and accessible administrative **complaint mechanism** should be enshrined in law to ensure that migrant workers who have experienced abuse or malpractice by a recruiter or employer can [access recourse](#).¹¹ Inspectorates should also ensure that a free multilingual phone hotline or online reporting tool for anonymous tips is established and regularly monitored so that migrant workers can report violations without identifying themselves. Online tools should be designed in a manner that encourages anyone reporting to provide sufficient information, if possible, to enable inspectors to follow up on the tip appropriately (e.g. by providing examples of useful details like the name of the business, location, etc.). Inspectorates should ensure that these channels are fully operational, and that processes are in place to promptly action and investigate all complaints and tips received.

Safeguarding the firewall approach

Montreal Recommendation

24. Governments should establish a firewall between immigration authorities and regulatory bodies responsible for recruitment to encourage reporting while protecting migrant workers.

It is well documented that migrants in countries of destination, particularly those with irregular immigration status, fear approaching authorities and using public services where they may be required to identify and confirm their immigration status. When migrant workers are unable or unwilling to report abusive practices because of the fear of deportation, illegal employment and recruitment practices are less likely to be uncovered, ultimately leading to a failure to protect migrant worker rights. This disincentive to report also contributes to unfair competition and can disadvantage ethical and law-abiding firms (potentially putting them out of business) and can undercut the terms and conditions

¹¹ For more details, see [Chapter 1: Adopting a Rights-Based Regulatory Approach to International Labour Recruitment](#) (Section 4) of the IRIS Handbook.

for all workers in the labour market. It is therefore also in the public interest that migrant workers in exploitative situations should be able to go to the authorities, report rights violations and participate in relevant inspections or investigations without fear that doing so will increase their chance of being detained or deported.

A **firewall** ensures that information gathered for the purpose of administering or enforcing recruitment-related legislation is not shared or used for immigration enforcement of the migrant worker(s) who come forward and/or participate in relevant inspections or investigations. In law and practice, inspectorates should uphold the firewall approach and clearly communicate it during inspections and public awareness campaigns among migrant communities. It is also worth noting that inspections should be done in a manner that guarantees private data protection and confidentiality, according to respective legislative requirements.¹²

Collaboration with trusted third parties

Inspection processes and outcomes can greatly benefit from formal collaboration with trusted third parties, including **trade unions, civil society** and **migrant worker support organizations**. Collaboration or cooperation mechanisms with these groups are a valuable way to build confidence and trust and can result in useful information for inspections. Local civil society organizations are often involved in cataloguing and reporting abuse and exploitation, while providing direct assistance to migrant workers. Inspectorates can also be supported by **international organizations**, such as the IOM and ILO, with capacity-building training activities or assistance from cultural mediators. Formal collaboration with trusted entities can mitigate the fear and distrust that some migrant workers have of governments as they are often more likely to trust and disclose exploitation to the former. In addition, trusted third parties are often:

- equipped with the means to help workers **document abuse**, including supporting them to gather evidence which can better protect workers and improve the integrity of inspection findings;
- able to assist migrant workers through any relevant inspections, investigations, or proceedings, including **filing a formal complaint**; and,
- able to provide a **wider range of protection and assistance** which may be needed by migrant workers who have experienced exploitation, forced labour, or human trafficking.

Where inspectorates do not have formal relationships with such organizations, they should still adopt and promote **referral processes**. This is especially important when they encounter migrant workers who have experienced abuse. In these circumstances, a variety of needs may arise, including legal assistance, psychosocial support and access to shelter, among others. Inspectorates should accordingly develop and distribute a support organization referral list with contact information to migrant workers during inspections and in broader outreach activities. This can complement direct referral actions to local social services, medical, psychological and other support services.

¹² Note Article 15(c) of ILO Labour Inspection Convention, 1947 (No. 81) which states: "Subject to such exceptions as may be made by national laws or regulations, labour inspectors shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provision and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint".

Italy – IOM cultural mediation support to the National Labour Inspectorate

An innovative example of collaboration is the formal partnership between the National Labour Inspectorate in Italy and IOM cultural mediators. IOM cultural mediators are present in almost all regions across Italy with an in-depth understanding of local context and dynamics. They have expertise in Italian labour and immigration law which enables them to provide accurate information to migrant workers, promptly detect suspected cases of labour exploitation and refer victims of labour exploitation to the appropriate protection mechanisms. Thus, they represent a unique source of information and trusted focal point for both migrant workers and local inspectors at the field level. IOM cultural mediators focus their work on two main areas of intervention: support to the National Labour Inspectorate during inspections and outreach sessions to migrant workers.

During labour inspections, cultural mediators are present to **mitigate and reduce language and cultural barriers** and **consolidate mutual trust** between migrant workers and labour inspectors during inspections. They introduce themselves and the inspectors to the migrant workers and clarify the objective of the visit, which is to uphold workers' rights and provide support for workers in exploitative conditions. Inspection outcomes are greatly improved due to the mediators' awareness of different social and cultural norms, their ability to build trust, facilitate dialogue, and help obtain valuable information in case of labour exploitation or illicit labour or recruitment practices.

Outreach sessions are conducted to raise **awareness** among migrant workers on **labour rights, ethical recruitment and labour practices**, and **protection mechanisms** available for victims of labour exploitation in Italy. They generally take place in public places where migrant workers usually congregate (e.g. religious sites, train stations, main squares, commercial parks, etc.) as well as private settings where a connection has already been made. Cultural mediators connect with migrant workers in their language and adopt an open and welcoming attitude. Where labour exploitation is apparent, migrant worker consent and agency is crucial. Mediators do not try to convince workers to choose any specific course of action; rather, they inform migrant workers of their options to enable empowered decision-making. Cultural mediators exchange contacts and follow up with workers who would like their support. Based on individual needs, cultural mediators also assist migrant workers with appropriate referrals to various services.

Between February 2020 and March 2022, this partnership supported 410 migrant workers who were victims of labour exploitation; 61% of these cases resulted from collaborative inspection activities, and 39% resulted from awareness-raising outreach activities. Overall, the success of IOM cultural mediators in this model is attributed to their regular presence in the field (they are widely known among the migrant communities), their ability to follow up with individual cases (being accountable to the people they encounter), and their ability to create a safe space of listening and understanding, while emphasizing migrant empowerment in the process.

Migrant worker engagement

Inspection modalities

Inspectorates should prioritize inspection modalities that give migrant workers an opportunity to meaningfully participate if they are willing to do so. Most concretely, inspection officers need a way to engage and speak to workers, which is why in-person, **on-site** inspection visits should be undertaken. While desk-based review of documents can uncover irregularities for further investigation, on-site

inspections should be performed to provide for an opportunity to engage migrant workers on their experience and check for signs of violations in person. On-site inspections also provide officers with a general sense of the working and living conditions, if applicable.¹³ It is worth noting that engaging migrant workers in person is not always viable, for example, during an on-site inspection of a recruitment agency in the country of origin after workers have been deployed abroad. In such cases, inspectorates are encouraged to establish alternative and safe channels for migrant workers to engage with them (as discussed [above](#)).

Inspectorates should also prioritize **unannounced** inspections, so that the entity subject to an inspection cannot prepare workers ahead of time with scripts, instruct the workers to stay home during the planned inspection, or, in exploitative situations, threaten workers to provide fabricated responses. Unannounced inspections should be enabled in law to authorize inspection officers to enter freely and without previous notice at any hour of the day or night.¹⁴ As explored in the discussion [above](#), unannounced visits should be complemented with other modalities to derive benefits from both reactive and proactive approaches.

Mobile inspectorates are another modality in which inspectorates should consider investing, mainly where migrant workers are working in rural or remote areas such as agriculture. This directly mitigates barriers of limited money and time, as well as lack of means and transport to leave the worksite (especially if workers live on the work premises and cannot readily contact or visit the inspectorate or other support services).

Brazil – Special mobile inspection unit

Since 1995, a Special Mobile Inspection Unit (Grupo Especial de Fiscalização Móvel), coordinated by the Secretariat of Labour Inspection, was established by the Brazilian government to combat slave-like labour conditions in Brazil. The unit is empowered to inspect worksites all over Brazil, in any sector or industry, and undertakes travel to some of the most difficult to reach and remote areas of the country. Since the mobile unit's creation, more than 59,000 workers have been rescued from slave-like conditions and more than 126 million reais have been recovered to workers for salary and severance amounts owed.

Mobile squads are uniquely composed of multiple authorities; led by labour inspectors who work with prosecutors and federal police officers, among other institutions. This partnership is significant because it **combines the authorities of administrative labour inspectors with the judicial powers held by prosecutors and the police**. It is also worth noting that residence permits are provided, upon registration, to immigrants, border residents or visitors who have been victims of human trafficking, slave labour or violations of rights aggravated by their migration status (Article 30, II, g, of Law 13.445/17).

¹³ To illustrate with an example: an employer may communicate that workers at their business are self-employed. They provide supporting documentary evidence (e.g. contracts written in a way that supports this position) to this effect. However, an inspection visit may test the reality of the relationship between the worker and employer, including the degree of control and direction applied to the worker. This may result in a determination that the workers are employees, with related entitlements, as opposed to the initially purported self-employed status.

¹⁴ In the labour inspection context, see sections 1(a) and (b) of Article 12 of the Labour Inspection Convention, 1947 (No. 81) "Labour inspectors provided with the proper credentials shall be empowered: (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection; (b) to enter by day any premises which they have reasonable cause to believe to be liable to inspection."

Instilling trust during an inspection visit

Inspectorates should make every effort to ensure that migrant workers can understand and communicate with them, which may require hiring and/or being accompanied by a neutral and professional **interpreter** or **cultural mediator**. This is necessary to overcome foreign language and cultural barriers that can entirely impede meaningful engagement. These actors play a vital role in helping migrant workers better understand their rights and the services available to them, which can have concrete outcomes towards ensuring their access to legal remedies, if needed.




Thailand – Foreign language interpreters and coordinators

To facilitate effective communication between government officers and migrant workers, the Royal Thai Government invests in foreign language interpreters and coordinators. Staff stationed across nationwide Migrant Workers Assistance Centres concretely assist in identifying victims of forced labour and other forms of exploitation, as well as ensure that migrant workers receive assistance according to their needs. For example, in the context of the COVID-19 pandemic, the Ministry of Labour undertook to hire 126 interpreters and 18 additional language coordinators specializing in Myanmar, Cambodian and Vietnamese languages.

Thailand's Ministry of Labour also partnered with the IOM to develop a handbook targeting interpreters and Thai service providers. The *Interpreter Handbook for the Protection and Assistance of Migrant Workers* builds the capacity of government interpreters and language coordinators working with migrant workers. The first edition, available in Thai, covers protection-oriented principles, as well as details about the rights and duties of migrant workers, national labour protection laws and practical guidelines for interpretation. Using this Handbook, IOM and the Royal Thai Government also deliver training activities targeting interpreters working with Government, especially those who work in border provinces.



Inspectors should also **be perceptive about the risks facing migrant workers when discerning how to approach and engage them during an inspection visit**. With the aim of instilling trust between inspectors and migrant workers, ahead of requesting an interview, for example, inspectors should make the following interventions:

	<p>Inform migrant workers what the inspection is about, to verify their recruiter and/or employer's compliance with the law.</p> <p>Inform migrant workers what the inspection is not about, clarifying that the purpose of the visit is not to blame them or search for worker misconduct.</p>
	<p>Convey that the inspectorate is sensitive to the potential risks involved in participating and provide workers with alternative communication channels, including:</p> <ul style="list-style-type: none"> • Instructions on how to contact the inspectorate directly and/or file a formal complaint • Instructions on how to use the anonymous hotline or online reporting tool • Referrals to trusted support organizations, including their contact information
	<p>Provide opportunity for migrant workers to ask questions</p> <p>Listen carefully</p>

Effective interview techniques with migrant workers

Migrant worker interviews provide inspectors with an opportunity to gather evidence from the worker perspective. This evidence can be used when cross-checking and triangulating other sources of evidence to make a compliance determination, such as observations from the worksite, interviews with recruiters and/or employers, documents and so on.

If migrant workers consent to an interview (see checklist below for what is involved in obtaining consent), inspectors should adopt migrant-sensitive interview techniques. The checklist below can be integrated into standard operating procedures as a starting point, with appropriate adaptations as needed. It is worth highlighting that inspection officers should make every effort to find a location where **privacy** can be offered to workers; **interviews should never be conducted with their recruiter, employer and/or recruiter/employer representative(s) present**.

This may involve holding the interview at a later moment or a different off-site location. In terms of who is interviewed, inspectors should choose the sample of consenting workers and should not rely on the employer or recruiter for selection. Inspectors should also make efforts to conduct **one-on-one interviews**, as opposed to group interviews. This is in part a measure to safeguard against situations where certain workers in a group may report back to the employer. It is also important in contexts where some workers have a degree of control over others (e.g. by holding passports or other identification documents) and may speak and answer on behalf of the group, even when questions are not posed to them directly.

Open-ended and closed question techniques¹⁵

When conducting an interview, inspectors are encouraged to first invite migrant workers to give free narrative accounts of their experience. This initial approach enables workers to share their experience in their own words and on their own terms, with inspectors only using non-specific follow-up prompts such as, “*Did anything else happen?*” or “*Is there more you can tell me?*”.

This can be supported by a standard interview guide with mostly open-ended questions. Questions should be simple (with only one point per question) and they should not contain jargon or abstract words and/or ideas. Open-ended questions allow workers to provide in an unrestricted response; questions that start with “who-”, “what-”, “where-”, “when-”, “how-”, and “can you describe” tend to generate wider responses with more information than closed “yes/no” questions. As an example, “*How did you find out about this job?*” (open question) can generate more information than a yes/no response to “*Did you pay fees to anyone to work here?*” (closed question).

It is worth noting that “why” questions are not included here as they may convey or imply blame on the worker for their situation. **Accusatory or interrogative lines of questioning should be avoided.**

While open-ended questions provide more information, details can be confirmed with specific follow-up questions. Specific or closed questions may be used sparingly to follow up on information that needs clarification or to confirm something more precise. Inspectors should also be aware that closed questions can be easily rehearsed, if for example, workers were provided with scripts ahead of time by their recruiter or employer. Finally, inspectors should listen to the worker carefully and avoid interrupting their response, even if they are not providing the expected type(s) of information. This involves waiting until the worker has finished speaking.



¹⁵ This guidance is adapted from the United Nations Office on Drugs and Crime (UNODC) Anti-human trafficking manual for criminal justice practitioners Module 8: Interviewing victims of trafficking in persons who are potential witnesses, with further relevant practical guidance contained therein.

Migrant-sensitive interview techniques: a checklist

Adapted from IOM Handbook on Direct Assistance for Victims of Trafficking

Interview conditions

- Where possible, ensure that the interview takes place in a closed private space where others cannot overhear or interrupt.
- The only persons allowed to be present should be the migrant worker, the interviewer(s), an interpreter (where necessary) and a qualified support person where appropriate. Employers, recruiters, or their agents should not be present.
- If there is any doubt as to the ability of the worker to understand the language of the interview, every possible effort must be made to secure the services of an interpreter.
- Mobile phones or other electronic devices should be turned off unless the worker agrees to a confidential recording.
- If a closed space is available, a “do not disturb” or similar sign should be placed on the door to prevent interruptions.
- If no **closed and private space** is available, the interviewer should endeavour to find as private a place as possible where the interview **cannot be overheard**.
- Avoid adopting a judgmental or interrogative style of interviewing.
- Try to establish a rapport with the worker that makes them feel respected and that they are someone whose views should be believed.

Introduction

- The interviewer should introduce themselves to the worker and describe their role in the inspectorate.
- Ascertain that the worker feels secure and comfortable.
- Ascertain whether they need to use the bathroom or require some refreshments.

Explanation

- Give a brief explanation of the role of the inspectorate, the objective of the inspection, and the purpose of the interview that is about to begin.
- Explain how the information provided will be used and of all potential consequences of their participation. Inform the worker about relevant privacy rules and specify what will happen with the information provided and how and with whom it may be shared and to what results it may lead.
- Explain to the worker that the interview may include questions about their employment and recruitment experience, and that it is possible some of the topics may be upsetting, painful to recall and may bring back difficult memories.
- Tell the worker that they can take time in answering the questions and may take a break at any time if necessary.
- Ensure that the worker understands that the interview is voluntary, and that they are not required to answer any questions.
- Explain that if the worker would like to contact the inspectorate at a later time to share other information, that they can do so. A card with contact information details should be offered. Ensure principles of confidentiality with respect to such calls.
- Explain to the worker that they can ask questions at any time or seek clarification or repetition of what has been explained or stated at any time.

Final points before beginning the interview

- Ascertain that the worker has clearly understood all of what has been explained.
- Ask the worker if they have any questions at this stage.
- Ask the worker if they agree to participate in the interview (i.e. obtain consent before proceeding).

Facilitating migrant worker access to remedy

Montreal Recommendation

34. Migrant worker empowerment is a vital measure to ensure that the rights of migrant workers are respected at all stages of the recruitment and migration process. This includes the availability of grievance and other dispute resolution mechanisms, which should be widely publicized.

Finally, it is worth reiterating the ways in which inspectorates can empower migrant workers to both report abuse and access remedy successfully. Inspectorates should:

- Create and disseminate multilingual resources that inform migrant workers how to access grievance mechanisms and the evidence they should collect (wage slips, contracts, diaries, photos, videos, etc.) as well as their labour rights, including rights to join a trade union, if applicable;
- Establish formal collaboration with trusted third parties, including civil society organizations;
- Refer migrant workers to necessary support services (e.g. psychosocial, housing, legal assistance, health-related) and protection if they feel threatened, including protection by police or prosecutors;
- Maintain and raise awareness of firewall with immigration enforcement;
- Support the extension of residency and work permits through collaboration with appropriate authorities.

Where rights violations are found, inspectorates have a duty to facilitate migrant worker access to remedy. This should include compliance orders that provide restitution for workers. As discussed [above](#), an effective compliance strategy cannot rely solely on the volume of sanctions in case of recruiter and/or employer non-compliance; it should also be assessed by the incidence of access to remedy as well for the migrant worker.

Resources

- IOM (2007), *IOM Handbook on Direct Assistance for Victims of Trafficking*
- ILO (2018), *Training Toolkit on Establishing Fair Recruitment Processes – Module 4: Monitoring and enforcement of recruitment regulations*
- ILO (2022), *Labour inspection and monitoring of recruitment of migrant workers – Technical Brief*
- ILO (2023), *Regional operational guidelines on fair and ethical recruitment in ASEAN. Improving regulation and enforcement: A resource for regulators.*
- ILO (2006), *A Tool Kit for Labour Inspectors: A Model Enforcement Policy, A Training and Operations Manual, A Code of Ethical Behaviour*
- ILO (2008), *Forced labour and human trafficking. Handbook for labour inspectors*
- UNODC (2009), *Anti-Human Trafficking Manual for Criminal Justice Practitioners - Module 8: Interviewing victims of trafficking in persons who are potential witnesses*
- Council of Europe Group of Experts on Action Against Trafficking in Human Beings (2020), *Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation*



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