

# ► Policy Brief

February 2025

## Social dialogue for the governance of labour migration

### Introduction

This policy brief explores the role of social dialogue in the governance of labour migration.<sup>1</sup> It examines how tripartite and bipartite social dialogue, cooperation and action have contributed to the development and implementation of rights-based and coherent international labour migration policies.

Drawing on examples of social dialogue from across the world, that range from the local to the global, the brief concludes by suggesting potential ways for ILO constituents to strengthen the role of social dialogue in labour migration governance, thereby contributing to decent work and social justice for all.

### ► The ILO mandate on social dialogue for the governance of labour migration

The ILO defines social dialogue as:

*All types of negotiation, consultation or information sharing among representatives of governments, employers and workers, or between employers and workers, on issues of common interest, relating to economic and social policy.*

Social dialogue is a cornerstone of the ILO and is crucial for good governance in the world of work. It is the principal vehicle for the ILO's tripartite constituents – governments, employers' representatives and workers' representatives – to come together to build a common understanding of labour market issues and challenges and to agree on shared solutions. Social dialogue is central to the pursuit of the ILO's overarching goal of decent work and social justice for all.

In 2019, there were an estimated 169 million international migrant workers, including 70 million women. The majority (60.6 per cent) were found in Northern, Southern and Western Europe, Northern America, and the Arab States. Asia and the Pacific is the region of origin of approximately one third of all international migrants. Migrant workers are predominantly found in services (66.2 per cent), followed by industry (26.7 per cent) and agriculture (7.1 per cent).<sup>2</sup>

<sup>1</sup> This policy brief is the outcome of collaboration between the Labour Migration Branch of the Conditions of Work and Equality Department and the Social Dialogue, Labour Relations and Governance of Work Branch of the Governance and Tripartism Department, with inputs from the Bureaus for Employers' and for Workers' activities. It is based on research conducted by Maria Mexi, senior advisor at Geneva Graduate

Institute and ILO consultant, including through interactions with many ILO technical specialists at headquarters and in the regions. All inputs are gratefully acknowledged.

<sup>2</sup> ILO, *ILO Global Estimates on International Migrant Workers: Results and Methodology*, 2021.

Women are concentrated in services, particularly in the care economy; while men are more present in industry, including construction and manufacturing. At the end of 2023, there were an estimated 31.6 million refugees and 6.9 million asylum seekers.<sup>3</sup>

The ILO has been concerned since 1919 with the protection of the rights and interests of workers employed in countries other than their own, including through the adoption of international labour standards. The [Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#), and the [Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#) – along with their accompanying Recommendations [Nos. 86](#) and [151](#) – recognize the pivotal role of the social partners in the effective governance of labour migration. More recently, the [Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#) requires that measures to address the situation of migrant workers affected by crisis situations, refugees and returnees be developed through gender-inclusive social dialogue, and recognizes the vital role of employers' and workers' organizations in crisis response.<sup>4</sup>

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) considers good governance in the area of labour migration to be reliant on employers' and workers' organizations being enabled to fulfil the roles and responsibilities ascribed to them in the development, implementation and adaptation of legislation and policy regarding the regulation of labour migration and the promotion of equality of opportunity and treatment for migrant workers.<sup>5</sup>

A key ILO objective is, therefore, to enhance the capacity of the tripartite constituents to contribute to effective labour migration governance and to protect migrant and refugee workers through a rights-based approach.<sup>6</sup> Structures and regular mechanisms for social dialogue on migration policy are necessary for the meaningful involvement of representative employers' and workers' organizations.<sup>7</sup> This requires, as well, coordination between government agencies to ensure consistency and coherence across labour migration, employment, social protection, education and training policies.<sup>8</sup>

<sup>3</sup> UNHCR, [Global Trends report 2023](#).

<sup>4</sup> See: [Recommendation No. 205](#), Parts IX, X and XI.

<sup>5</sup> ILO, [Promoting Fair Migration: General Survey Concerning the Migrant Workers Instruments](#), ILC.III/1B (2016), paras 131 (and Box) and 189.

<sup>6</sup> With regard to migrant workers, see: ILO, [Fair Migration: Setting an ILO Agenda](#), ILC.103/DG/IB (2014); and ILO, [Resolution concerning fair and effective labour migration governance](#) (2017). With regard to refugees,

see: ILO, [Guiding Principles: Access of Refugees and Other Forcibly Displaced Persons to the Labour Market](#), 2016.

<sup>7</sup> ILO, [Resolution concerning a fair deal for migrant workers in a global economy](#) (2004), para. 10.

<sup>8</sup> ILO, [ILO Multilateral Framework on Labour Migration: Non-binding Principles and Guidelines for a Rights-based Approach to Labour Migration](#), 2006, 11.

► Figure 1: Key milestones in ILO tripartite social dialogue on labour migration



► **Box 1. The ILO Multilateral Framework on Labour Migration, 2006: What does it say about social dialogue?**

Following the discussion at the [International Labour Conference in June 2004](#), ILO constituents agreed to develop a set of non-binding principles and guidelines on a rights-based approach to labour migration. The [ILO Multilateral Framework on Labour Migration](#) was adopted in 2005 by the tripartite constituents and endorsed by the Governing Body in 2006. It emphasizes the role of social dialogue in the governance of labour migration:

***Principle 2: Governments, in consultation with employers' and workers' organizations, should engage in international cooperation to promote managed migration for employment purposes.***

States may give practical effect to this principle by:

- Developing intergovernmental dialogue and cooperation, in consultation with the social partners and civil society and migrant worker organizations.
- Establishing mechanisms for tripartite consultations at regional, international and multilateral levels.

***Principle 6: Social dialogue is essential to the development of sound labour migration policy and should be promoted and implemented.***

States may give practical effect to this principle by:

- Establishing or strengthening national procedures for social dialogue to ensure consultation on all aspects of labour migration.
- Facilitating the participation of employers' and workers' organizations in international, regional, national and other forums, including through the establishment of tripartite consultative procedures.
- Promoting dialogue with employers' organizations on the practical opportunities and challenges they face when employing migrant workers.
- Promoting dialogue with workers' organizations on labour migration concerns and their role in assisting migrant workers.
- Involving both men and women migrant workers in dialogue and consultation.

***Principle 7: Governments and social partners should consult with civil society and migrant associations on labour migration policy.***

Governments are called on to:

- Identify, with the social partners, civil society and migrant associations that promote the rights and welfare of migrant workers for consultation and support.
- Encourage networking between the social partners, civil society and migrant associations.

Since the adoption of the ILO Centenary Declaration in 2019, ILO constituents have reaffirmed their commitment to protecting migrant workers, through social dialogue, in two ILO International Labour Conference (ILC) resolutions:

The ILC [resolution concerning inequalities and the world of work](#) (2021)<sup>9</sup> highlights the inequalities faced by migrant workers (alongside other disadvantaged groups), including women migrant domestic workers in the informal economy. The resolution points to the need for strong social dialogue, including collective bargaining, to effectively tackle inequalities in the world of work and to

contribute to a more equitable distribution of income and wealth.

The [ILC resolution concerning the second discussion on labour protection](#) (2023)<sup>10</sup> recognizes the contribution that migrant workers make to sustainable development by filling labour shortages, while pointing out that many face continued discrimination and barriers in access to labour protection. The resolution calls on Member States to promote effective social dialogue, including collective bargaining, at all appropriate levels and to take measures to protect migrant workers' rights and working conditions.

<sup>9</sup> ILO, [Resolution concerning inequalities and the world of work](#), ILC.109/Resolution XVI (2021).

<sup>10</sup> ILO, [Resolution concerning the second recurrent discussion on labour protection](#), ILC.111/Resolution IV (2023), paras 12 and 22(a) and (n).

## ► The promotion of social dialogue for labour migration governance in the multilateral arena

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In addition to providing support specifically to ILO constituents to enable them to address, in a holistic way, the interconnectedness of social dialogue, fair labour migration and decent work, the ILO works with and through various multilateral frameworks and platforms to promote social dialogue and the involvement of the social partners in the governance of international labour migration.

These frameworks and platforms include the:

- **United Nations' 2030 Agenda for Sustainable Development:** The ILO's work on labour migration is aligned with the 2030 Agenda, in particular with Sustainable Development Goal (SDG) 8 on inclusive and sustainable economic growth, employment and decent work for all, and with SDG 10 on reduced inequalities within and among countries. These goals are of particular significance to both the Decent Work and Fair Migration agendas of the ILO.<sup>11</sup>
- **Global Compact for Safe, Orderly, and Regular Migration (GCM):**<sup>12</sup> The ILO actively participates in implementing the GCM to help ensure that decent work and social dialogue are an integral part of migration policies. The UN Network on Migration Executive Committee was established to ensure effective systemwide support to Member States in
- **Global Compact on Refugees (GCR):**<sup>13</sup> Access to decent work is central to the framework set by the GCR. The ILO has played an active role in supporting its implementation including through pledges made during the Global Refugee Forums in 2019 and 2023, to enhance refugees' inclusion, ensure greater protection and promote the rights of refugees.
- **Global Forum on Migration and Development (GFMD):** The GFMD is an informal state-led dialogue on migration that brings together global expertise to help articulate the key role of migration for sustainable development. The ILO works to ensure the active participation of the social partners in roundtable discussions and other events on relevant topics.<sup>14</sup>

their implementation, follow-up and review of the GCM. The ILO is a co-lead, with the International Organization for Migration (IOM), of a multi stakeholder Thematic Working Group on bilateral labour migration agreements (BLMAs), which includes representatives of workers' and employers' organizations, including the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC).

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<sup>11</sup> Sustainable Development Goal target 8.8 aims to protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment. See: UN, [Transforming Our World: The 2030 Agenda for Sustainable Development](#), 2015.

<sup>12</sup> ILO, ["UN Secretary-General's Report on the Global Compact for Safe, Orderly and Regular Migration: Inputs of the International Labour Organization"](#), 2017.

<sup>13</sup> See: [Global Compact on Refugees](#).

<sup>14</sup> See, for example, GFMD, ["Background Paper for Roundtable 4: Labour Migration: Promoting the Economic Inclusion of Migrants"](#), 2024, in which the role of social dialogue is consistently emphasized.

## ▶ Social dialogue for labour migration governance: Why does it matter?

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### **Advancing social justice**

The ILO is the only United Nations specialized agency with a constitutional mandate to protect the rights of migrant workers as part of its overarching mission to achieve social justice through decent work for all.

### **Reducing poverty and fostering social inclusion**

Under specific circumstances, migrant remittances contribute foreign exchange and increase incomes for poor families in origin countries. They can also increase the resources available to governments for investment in social services, infrastructure and public goods. Social dialogue provides a platform for consultations on how to maximize the benefits of remittances while addressing the challenges involved.

### **Safeguarding workers' rights**

Poorly managed labour migration poses risks and challenges for sustainable development and decent work in countries of origin, transit and destination, especially for low-wage workers. Social dialogue helps ensure that labour migration policies prioritize the protection of migrant workers' rights, including through fair recruitment, equal wages, safe working conditions and social protection.

### **Developing sustainable labour migration policies**

Social dialogue can help ensure that labour migration policies reflect the realities of migrant workers and their employers, and that the policies contribute to broader national economic and social development objectives. Employers' and workers' organizations can promote and support effective policy implementation by their members.

### **Addressing irregular migration in abusive conditions**

Social dialogue is crucial in fostering greater understanding of and commitment to addressing irregular migration in ways that advance respect for workers' rights and prevent and eliminate abusive conditions.

## ► What are common labour migration challenges that should be addressed through social dialogue?

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**Informality** affects migrants, refugees and national workers in all regions, exacerbating their vulnerabilities. It poses challenges for regulation, social protection and enforcement of workers' rights.

**Discrimination** against migrant workers and the associated risk of exploitation, including through trafficking for forced labour, are widespread. Migrant workers, especially those in an irregular situation, often face inequalities with regard to hiring and conditions of work, including wages and occupational safety and health protection. Discrimination based on migration status often intersects with discrimination on other grounds, such as gender, race, religion, disability or health status, compounding the disadvantages faced by many migrant workers.

Recognizing and validating **skills** acquired abroad represents a hurdle for migrant workers seeking to utilize their skills upon their return home, while the departure of skilled workers can be a constraint on development in their communities of origin. Skilled and highly skilled migrants constitute the majority of the global migrant population, but their skills and qualifications are often underutilized in countries of destination.<sup>15</sup> Moreover, refugee workers face significant challenges, particularly in accessing education and training. Recognizing prior learning and offering reskilling or skills upgrading are crucial steps to overcome barriers and enhance employment prospects.<sup>16</sup>

**Gender-related** challenges faced by women include violence and harassment, lack of access to childcare, limited occupational choices and low awareness of legal

rights. Such issues limit women's access to better paid work and to career progression. Women migrants face multiple disadvantages when gender discrimination intersects with discrimination on other grounds.

**Climate change**-induced mobility is a growing challenge in some regions, including Africa and the small island States of the Pacific. In addition, **conflict**-induced migration is a major factor in many war-torn regions. The resulting increases in unplanned and unsafe migration, both voluntary and involuntary, can have a negative impact on the rights of migrants and on the environment.<sup>17</sup>

Challenges to the **freedom of association and collective bargaining rights** of migrant workers are widespread.<sup>18</sup> Irregular legal status and employment arrangements often hinder migrant workers' ability to join trade unions and collectively negotiate with employers for improved rights and working conditions. Greater efforts and strengthened capacity of all tripartite partners are required to ensure that labour migration issues are taken up more systematically and effectively in institutionalized social dialogue.

The lack of comprehensive and robust disaggregated **data** on international labour migration and migrant workers impedes the development and monitoring of evidence-based policies and plans.

Limited **cross-border cooperation** regarding labour migration results in a lack of harmonization and coherence among policies within and between regions.

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<sup>15</sup> See: ILO, "[Skills for Migration and Employment](#)", ILO Skills for Employment Policy Brief, 2018, 3.

<sup>16</sup> See: ILO, "[The role of social partners in skills development, recognition and matching for migrant workers. A contribution to the Global Skills Partnership](#)", Workshop paper, 2020

<sup>17</sup> See: ILO, "[Human Mobility and Labour Migration Related to Climate Change in a Just Transition towards Environmentally Sustainable Economies and Societies for All](#)", ILO Just Transition Policy Brief, October 2022.

<sup>18</sup> See: ILO, "[Migrant Workers' Rights to Freedom of Association and Collective Bargaining](#)", 2023.

## ► Experiences at the national level in using social dialogue for labour migration governance and policymaking

This section presents a selection of documented examples of the use of social dialogue in the governance of labour migration at the national level. The examples include, first, instances of tripartite social dialogue; second, cases of bipartite social dialogue, including collective bargaining; and third, some examples of social dialogue at the local or territorial levels.

### Tripartite social dialogue

The following examples are grouped according to the nature of the labour migration issue that was addressed through tripartite social dialogue.

#### Labour migration policy formulation

The involvement of employers' and workers' representatives, through tripartite social dialogue with government, in the formulation and subsequent implementation of national policies on labour migration, helps ensure that such policies reflect the realities of the labour market. It also engenders a sense of ownership and commitment by the social partners, thereby leading to more effective and sustainable implementation.<sup>19</sup> Many countries have recognized the value-added of such engagement, as demonstrated by the following examples. **Chile's** first-ever long-term, focused national migration policy was finalized in 2023 through consultations with employers' and workers' organizations and civil society organizations. The policy's design and development, facilitated by the ILO, involved three stages: (i) gathering baseline information; (ii) territorial and thematic dialogues; and (iii) collecting data from local governments to assess the impact of migration in local areas and cities. Extensive multi-stakeholder consultations were conducted, starting from 2017, to contribute to the formulation of policies to improve migrants' rights, working conditions and awareness. These efforts culminated in the adoption of the National Policy.<sup>20</sup>

In **Cambodia**, the Policy on Labour Migration for 2019–2023 was the result of extensive consultations, including tripartite consultative workshops, organized with the support of the ILO. Representatives of the Ministry of Labour and Vocational Training (MoLVT), workers' and employers' organizations, associations of recruitment agencies, civil society groups and international organizations all provided inputs to the policy development. Consultative meetings were also held with migrant communities, persons with disabilities and LGBTQIA+ groups.<sup>21</sup> The policy explicitly provided for collaboration between the MoLVT and relevant line ministries, the private sector, trade unions, service providers and civil society, as well as with countries of destination, for its full and effective implementation. The policy's Action Plan also identified trade unions and associations of recruitment agencies as contributing partners. The MoLVT, with ILO support, is planning a new phase of the policy, which will also involve consultations with the social partners.

Africa's experience in this area is most extensive. In **Ghana**, the National Migration Policy adopted in April 2016 resulted from an extensive consultation process spearheaded by an inter-ministerial steering committee. The crucial role of employers' and workers' organizations in the policy's implementation was explicitly acknowledged.<sup>22</sup> With the support of ILO, consultative processes that included the labour and other line ministries as well as social partners contributed to the development and adoption of national labour migration policies in **Eswatini**, **Lesotho** and **Zimbabwe**.

Most recently, in **Ethiopia**, the Ministry of Labour and Skills established, also with ILO support, a national technical working group on labour migration in October 2023, involving the Ministry of Foreign Affairs; the Ministry of Women, Youth, Children and Social Affairs; the Ministry of Justice; the Confederation of Ethiopian Trade Unions; and

<sup>19</sup> See: ILO, *Practical Guide on Developing Labour Migration Policies*, 2021.

<sup>20</sup> See: Chile, Ministry of Interior and Public Security, "Press Release on Nueva Política Nacional de Migración y Extranjería", 6 July 2023.

<sup>21</sup> See: Cambodia, Government of Cambodia, *Policy on Labour Migration for Cambodia 2019–2023*, 2018.

<sup>22</sup> See: Ghana, Ministry of Employment and Labour Relations, *National Labour Migration Policy 2020–2024*, 2020.



the Confederation of Ethiopian Employers' Federation, among other key stakeholders. The group's primary goals are to enhance coordination and foster synergies, improve the implementation of labour migration initiatives, and maximize efficiency/avoid duplication of efforts.<sup>23</sup>

A participatory process was also used in [Tunisia](#) in 2017 to revise the national migration strategy. Led by the Ministry of Social Affairs, the initiative engaged various government departments, the social partners<sup>24</sup>, civil society, the ILO, the IOM and others. Tripartite workshops in [Morocco](#) addressed the protection of migrant workers' rights and the enhancement of labour migration governance through reinforced social dialogue. National road maps and action plans were formulated to strengthen institutions and collaboration with social partners in the realm of labour migration in both of these countries and in [Egypt](#) as well.<sup>25</sup>

[South Africa](#) is the most significant destination country in Africa, with around 2.9 million international migrants residing in the country<sup>26</sup>, the majority of whom came in search of jobs.<sup>27</sup> The National Economic Development and Labour Council (NEDLAC) is the statutory body for social dialogue, a platform for government, labour, business and community organizations to collaborate to address economic, labour and development issues. A white paper on international migration was approved by the Cabinet in March 2017 as the culmination of an extended process of broad consultation. The policy articulated in that white paper aimed to promote the regularization of semi-skilled and unskilled international economic migrants, including domestic workers, providing a framework for their integration into local communities.<sup>28</sup> In 2022, the Government formulated a comprehensive National Labour Migration Policy (NLMP) through extensive consultations involving NEDLAC and other stakeholders at the regional, national and provincial levels. The draft states that "social partners and other key stakeholders will become much more closely associated with policy decision-making,

management and evaluation, thus ensuring stronger consensus building regarding the role played by labour migration policy in South African society". The Subcommittee on Employment Services Regulations under the Employment Services Board will serve as the advisory body to the Minister responsible for the management and evaluation of the NLMP.<sup>29</sup>

## Legislative reform

Legal reforms brought about through social dialogue, or with the aim to integrate tripartite social dialogue within relevant legal frameworks, have sought to protect migrant workers' rights and ensure compliance with international labour standards. For example, in [Viet Nam](#), the revised Law on Contract-Based Vietnamese Overseas Workers became effective in January 2022. The revision process involved a series of extensive consultations with employers' and workers' organizations, including migrant workers.<sup>30</sup> In [Thailand](#), the revised Royal Ordinance Concerning Management of Employment of Migrant Workers was adopted in March 2018 following public hearings and consultations with stakeholders. It includes a provision to establish a tripartite committee to oversee migration policy.<sup>31</sup>

## Migrant workers' protection in specific sectors

In [Argentina](#), the tripartite National Commission on Private Household Labour (CNTCP) was established to define work and accommodation conditions in the domestic work sector, where many migrant workers are employed, and to organize capacity-building for employers' and workers' representatives. In 2018, the CNTCP adopted a resolution defining hourly and monthly wages, emphasizing the

<sup>23</sup> See: ILO, "[Press Release on Ethiopia's Strategic Leap: Launching the National Technical Working Group on Labour Migration](#)", 12 October 2023.

<sup>24</sup> Namely, the Tunisia General Labour Union (UGTT) and the Tunisian Union of Industry, Trade and Handicrafts (UTICA).

<sup>25</sup> ILO, "[Press Release on Strengthening Labour Migration Governance through Tripartism and Social Dialogue in the Formulation and Implementation of Evidence-based and Gender-sensitive Labour Migration Policies, Legislation and Practices](#)", 17 February 2019.

<sup>26</sup> IOM, [World Migration Report 2022](#), 2022, 62.

<sup>27</sup> See: South Africa, Department of Employment and Labour, [Draft National Labour Migration Policy for South Africa](#), February 2022.

<sup>28</sup> South Africa, Department of Home Affairs, [White Paper on International Migration for South Africa](#), 2017.

<sup>29</sup> See: South Africa, Department of Employment and Labour, [Draft National Labour Migration Policy for South Africa](#), 2022, 77.

<sup>30</sup> See: ILO, "[Revision of the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14](#)", ILO MIGRANT Good Practices Database, accessed 15 July 2023.

<sup>31</sup> ILO, "[Law Amendment Concerning Management of Migrant Workers in Thailand](#)", ILO Promising Practices for Fair Recruitment Brief, April 2021.

principle of equal remuneration for men and women workers.<sup>32</sup>

The 2015 [Belgian](#) Plan for Fair Competition was the result of tripartite negotiations involving the Government, trade unions and employers' associations. The Plan aims to ensure fair and safe working conditions for workers, including migrant workers (particularly in the construction sector), as well as fair competition and a level playing field among businesses across several sectors, including construction, transport, electronics, cleaning, agriculture, metallurgy and carwash services.<sup>33</sup> In [Italy](#), the priorities of the National Action Plan to Tackle Labour Exploitation, Unlawful Recruitment and Forced Labour in Agriculture (2020–2022) were identified via six groups encompassing social partners and representatives from relevant national institutions, international organizations and NGOs.<sup>34</sup>

## Skills shortages and immigration and admission policy

There is significant experience, particularly from Europe, of tripartite involvement in the development of laws and policies concerning immigration, including for the identification of skills shortages and the establishment of admission criteria.

The Skilled Immigration Act in [Germany](#), which came into force in three steps in November 2023, March 2024 and June 2024, aims to address the shortage of skilled workers in the country.<sup>35</sup> Devised through tripartite consultation, this law seeks to increase the number of non-European Union workers entering Germany by 60,000 per year.<sup>36</sup> The Act simplifies entry and residence procedures for skilled workers from third countries in certain key economic sectors.

In [Spain](#), the Tripartite Labour Commission on Immigration has worked on identifying occupations facing shortages and determining immigration quotas through a process involving regional governments. Following this process, a list of hard-to-fill occupations was released in June 2022. The social partners were also involved in the 2022 revision of the Spanish Immigration Regulations, including the development of criteria for granting residency permits to foreign nationals, procedures for renewing and revoking residency permits, and penalties for violation of the regulations.<sup>37</sup>

In [Brazil](#), the National Immigration Council (CNIg) was established in 1980 as a tripartite institution under the Ministry of Labour. It plays a key role in discussing immigration matters, advising on immigration policy, overseeing implementation of the law and raising public awareness. It notably contributed to drafting of the 2017 immigration law.<sup>38</sup>

The [Australian](#) Government has adopted a tripartite approach to address workforce shortages in elderly care through a new Aged Care Industry Labour Agreement. This agreement aims to attract foreign workers and enhance recruitment and retention in the sector, offering incentives to attract foreign workers, including an expedited two-year pathway to permanent residency.<sup>39</sup>

## Migrant workers and refugees in crisis situations

Social dialogue has been used to good effect with respect to labour migration and refugee issues associated with recent and on-going crises, notably the COVID-19 pandemic and the war in Ukraine.

In [Czechia](#), a tripartite working group focuses on the employment of foreign workers. In March 2020, this group

<sup>32</sup> ILO, *Migrant Workers' Rights to Freedom of Association and Collective Bargaining*, 73.

<sup>33</sup> See: Belgium, SIOD, "[Plan pour une concurrence loyale : 40 mesures concrètes pour la construction](#)", 8 July 2015, renewed 21 February 2024 "[Deuxième Plan de concurrence loyale – secteur de la construction](#)"; and ELA, [Successful Approaches of Cooperation between Labour Inspectorates and Social Partners](#), 2021, 11, 14, 17–19, 21.

<sup>34</sup> See: Italy, Ministry of Labour and Social Policies, [Three-Year Plan to Tackle Labour Exploitation and Unlawful Recruitment in Agriculture \(2020–2022\)](#).

<sup>35</sup> See: [Government of Germany, "The New Skilled Immigration Act at a Glance"](#).

<sup>36</sup> See: "[Germany to Pass Immigration Reform Law This Week](#)", *Reuters*, 19 June 2023.

<sup>37</sup> European Commission, "[Press Release on Spain: Government Adapts Immigration Law to Include Migrant Workers in the Labour Market](#)", 5 September 2022.

<sup>38</sup> ILO, "[National Council of Immigration](#)" (Known by the Acronym CNIg in Portuguese), ILO MIGRANT Good Practices Database, accessed 15 July 2023.

<sup>39</sup> See: Australia, Ministry for Immigration, Citizenship and Multicultural Affairs, "[Press Release on A Tripartite Approach to Address Workforce Shortages in Aged Care](#)", 5 May 2023.

agreed on "Ten Points for Employers of Foreigners in Times of Emergency", outlining principles for protecting and safeguarding migrant workers during the COVID-19 crisis. Employers and trade unions jointly committed to preventing the misuse of foreign workers during pandemic-related emergencies.<sup>40</sup> In [Kenya](#), a tripartite Memorandum of Understanding signed in April 2020 included specific measures to protect migrant workers during the COVID-19 crisis: those who lost their jobs were allowed to retain their residency status and work permits for a specified timeframe, ensuring that their migration status remained unchanged.<sup>41</sup> In [Cambodia](#), during an annual tripartite meeting on the Decent Work Country Programme in November 2020, the tripartite partners agreed on five priority areas for COVID-19 recovery. These areas aimed to support businesses and workers affected by the crisis and included, among other measures, the expansion and strengthening of social protection for vulnerable workers, such as returning migrant workers, informal workers and construction workers.<sup>42</sup>

Social dialogue has also been applied in responding to the impact of the Ukraine crisis on the well-being of migrant workers. In [Finland](#), for example, the Ministry of the Interior established a coordination group to address issues related to immigration/refugees from Ukraine, with active participation of the social partners in discussions concerning the reception of, services for and labour market participation of Ukrainians.<sup>43</sup>

## Bipartite social dialogue, including collective bargaining, to protect migrant workers' rights and working conditions

Various forms of bipartite social dialogue between employers' and workers' representatives, including collective bargaining and workplace cooperation, have been used to address migrant workers' protection at levels

from the enterprise, to the sectoral, to the national. The following examples illustrate the range of approaches taken.

In [Jordan](#), in October 2022, a collective agreement was concluded in the textiles, garment and clothing sector, which represented the fifth in a series.<sup>44</sup> The signatories were the Jordan Garments, Accessories and Textiles Exporters' Association (J-GATE) and the Association of Owners of Factories, Workshops and Garments (AOFWG) for the employers and the General Trade Union of Workers in Textile, Garment & Clothing Industries (GTUWTGCI) for the workers.<sup>45</sup> This wide-ranging agreement contains explicit provisions for migrant workers and also refers to refugee workers. Around 78,600 workers were employed in Jordan's garment-exporting sector in 2022, with migrant workers, primarily from South Asia, accounting for three quarters.<sup>46</sup>

Among its provisions, the collective agreement:

- makes explicit that the minimum wage and annual pay increases apply to all workers, regardless of their nationality;
- fixes the value of the "in-kind" wage component for migrant workers;
- requires that the elected union labour committee at the workplace shall guarantee proportional representation of the different nationalities working there;
- prohibits pre-employment pregnancy tests for women workers, especially migrants;
- requires employers to take measures ensuring protection from workplace violence and harassment and discrimination in recruitment; and
- stipulates minimum standards for migrant workers' dormitories.

Article 9 of the collective agreement sets out specific considerations on the employment of migrant workers and refugees in regard to: the use of recruitment agencies in origin countries; non-payment of recruitment fees by

<sup>40</sup> Monika Martišková and Adam Šumichrast, *Bargaining for Working Conditions and Social Rights of Migrant Workers in Central and Eastern European Countries (BARMIG): National Report Czechia*, CELSI Research Report Research No. 46, 2022, 21.

<sup>41</sup> United Nations Network on Migration, *Tackling the Socio-Economic Consequences of COVID-19 on Migrants and Their Communities: Why Integration Matters*, 2022, 41.

<sup>42</sup> See: ILO, "Country Policy Responses".

<sup>43</sup> ETUC, "The Role of Social Dialogue".

<sup>44</sup> Previous agreements were signed in 2013, 2015, 2017 and 2019.

<sup>45</sup> See the *Collective Agreement between J-GATE, AOFWG and GTUWTGCI*, 10 October 2022.

<sup>46</sup> Better Work Jordan, *Annual Report 2023: An Industry and Compliance Review – Reporting Period: January – December 2022* (ILO and IFC, 2023), 12.

workers; and the provision of the unified employment contract in the worker's native language. Other important provisions cover health and safety; mental and physical healthcare; and workplace literacy and awareness. Negotiations for the previous collective agreement in 2019 had involved consultation workshops with workers of seven nationalities. According to survey data gathered in July 2020, half of all workers in the Jordanian textiles, garment and clothing sector were familiar with the agreement and its contents; while a further 15 per cent were aware of the agreement but not of its content.<sup>47</sup>

In [Italy](#), the 2020 National Collective Labour Agreement on the Regulation of the Domestic Work Relationship, concluded between the Italian Federation of Domestic Work Employers (FIDALDO) and the National Association of Employers of Domestic Workers (DOMINA), provides in clause 1(1) that "the contract applies to family assistants (home helps, carers, babysitters and other professional profiles...), also of non-Italian nationality or stateless persons, who are paid, employed in the functioning of family life and family structured cohabitation, taking into account certain fundamental characteristics of the relationship" (emphasis added).<sup>48</sup>

In other instances, the extension of collective bargaining agreements has played a role in advancing inclusive labour protection,<sup>49</sup> safeguarding the terms and conditions of employment for migrant workers, and fostering equality of treatment between migrant workers and national workers. The undertaking of extension measures requires not only government involvement, but also active participation from trade unions and employers' organizations.<sup>50</sup>

The primary channel for bipartite social dialogue and workplace cooperation at the enterprise level in [Qatar](#) is the joint committee, which brings together management and elected worker representatives to address a wide range of workplace issues, including conflict prevention and resolution. Legislation adopted in 2019 that provided for

elected migrant worker representatives on joint committees was a first in the Gulf region.<sup>51</sup> By October 2022, more than 70 private enterprises employing more than 50,000 employees had established such committees, and numerous other companies were preparing to do so. These committees are found in sectors employing predominantly migrant workers, such as construction, landscaping, catering, cleaning, hospitality, manufacturing and transport. Nevertheless, further efforts are needed to strengthen mechanisms for collective bargaining in Qatar, to provide migrant workers with crucial legal protections and to permit them to form or join independent trade unions.<sup>52</sup>

Fair Play Bygg is a bipartite organization in [Sweden](#) founded by the trade union Byggnads Stockholm-Gotland and the employers' organization Stockholms Byggmästareförening to stop criminal activity in the construction industry, including through the investigation of instances of undeclared work (often involving migrant workers). Between 2018 and 2019, social partners also collaborated with actors in the entire construction sector value chain to develop a national strategy to promote fair competition, including by tackling informal employment of migrant workers and vulnerable groups. The formulation of the strategy involved extensive nationwide workshops and discussions with industry stakeholders. The strategy has served to raise awareness and foster consensus regarding the challenges and efforts needed to combat unfair competition, including undeclared work.<sup>53</sup>

Social partners in the [Netherlands](#) were extensively consulted during preparation of the first advisory report on labour migration in 2014 by the Social and Economic Council (SER). The SER includes business and worker members as well as independent experts, and plays a crucial role providing advice to the Government on migration policies.<sup>54</sup> Additionally, the Foundation for Compliance with Collective Labour Agreements for Temporary Agency Workers (SNCU) in the Netherlands aims

<sup>47</sup> ILO, *Social Dialogue Report 2022: Collective Bargaining for an Inclusive, Sustainable and Resilient Recovery*, 2022, 101.

<sup>48</sup> See: *Assindatcolf*, "Contratto Collettivo Nazionale del Lavoro Domestico"; and ILO, *Securing Decent Work for Nursing Personnel and Domestic Workers, Key Actors in the Care Economy*, ILC.110/III(B), 2022, 222.

<sup>49</sup> Susan Hayter and Jelle Visser (eds), *Collective Agreements: Extending Labour Protection* (ILO, 2018).

<sup>50</sup> ILO, *Migrant Workers' Rights to Freedom of Association and Collective Bargaining*, 6.

<sup>51</sup> ILO, *Labour Reforms in the State of Qatar: Coming Together around a Shared Vision*, 2022, 13.

<sup>52</sup> See: ILO, "Infostories – What Has Changed for Migrant Workers in Qatar?", November 2022.

<sup>53</sup> Ruslan Stefanov, et al., *Social Partners and Their Key Role in Tackling Undeclared Work: 12 Success Stories* (European Platform Tackling Undeclared Work, 2019), 51–58.

<sup>54</sup> Migration Partnership Facility, "Re-thinking Approaches to Labour Migration: Potentials and Gaps in Four EU Member States' Migration Infrastructures", MPF Policy Brief, 2022, 12.

to ensure compliance with collective labour agreements in the temporary work sector. This bipartite body is responsible for addressing, among others, cases of migrant worker exploitation and unfair working conditions identified in the sector.<sup>55</sup> Within this body, the "CLA Police" functions as a bipartite enforcement initiative.<sup>56</sup>

Several trade unions in [Morocco](#)<sup>57</sup> have collaborated with the General Confederation of Moroccan Enterprises (CGEM) on labour migration. With support from the ILO, they unveiled a joint charter and advocacy strategy in July 2022 that sets out the vision, objectives and priority actions to protect the rights of migrant workers, refugees and their families, while promoting social dialogue on international labour migration in Morocco.<sup>58</sup>

## Social dialogue on labour migration at the local and territorial levels

Social dialogue between public authorities at the local level and the social partners has been used to address various migrant labour issues through inclusive policymaking.

In [Italy](#), eight municipalities developed local plans in 2023 as part of the first phase of the InCaS project, which was developed by the National Association of Municipalities

(ANCI) and Cittalia, a foundation of ANCI, and funded by the Italian Ministry of Labour and Social Policies. The project aims to address incidents of "*caporalato*", a system of labour exploitation that has persisted for decades in Italy, wherein migrant workers are forced to work long hours and are often subjected to abuse and underpayment. The Local Multisectoral Plans serve as key instruments for implementing actions outlined in the national Three-Year Plan to Combat Labour Exploitation in Agriculture. The formulation of these Local Multisectoral Plans involved a broad participatory and inclusive process with the participation of national and local institutions, employers, trade unions, and third-sector associations.<sup>59</sup>

In [Argentina](#), the Unión Obrera Ladrillera de la República Argentina amended its statutes in 2016 to allow informal brick makers, many of whom are migrant workers from Bolivia, to join the trade union. Through collaboration agreements with the Federation of Municipalities, social dialogue platforms called Provincial Brick Makers Coordinating Committees were established to develop integrated support plans for the sector.<sup>60</sup> Other cities and territorial authorities have been actively engaging with employers to change mindsets and overcome obstacles for migrants in the labour market, with a particular focus on women, and to promote entrepreneurship among migrant workers.<sup>61</sup>

<sup>55</sup> See: "[Stricter Rules for Employment Agencies to Protect Migrant Workers against Exploitation](#)", ANP, 11 October 2023.

<sup>56</sup> WEC, [Compendium of Voluntary Initiatives Promoting Ethical Recruitment Practices](#), 2017, 10.

<sup>57</sup> Namely the Workers' Union (UMT), the General Union of Moroccan Workers (UGTM), and the Democratic Confederation of Labour (CDT).

<sup>58</sup> See: Arab Trade Union Confederation, "[Press Release on Morocco: A New Charter between Trade Unions and CGEM to Protect the Rights of Migrant Workers](#)", 16 July 2022.

<sup>59</sup> See: European Commission, "[Press Release on Italy: Eight Municipalities Published Plans to Combat Labour Exploitation in Agriculture](#)", 22

January 2024; and "[Lotta al capolato, via al progetto InCaS](#)", in *Cronache Maceratesi*, 10 January 2023.

<sup>60</sup> Global Unions, [Organising for Justice: Trade Union Actions in Defence of the Human and Labour Rights of All Migrants](#), 2022, 12.

<sup>61</sup> See: OECD, [Working Together for Local Integration of Migrants and Refugees](#), 2018; and OECD, "Multi-level Governance for Inclusive Cities", in UN Habitat, [Local Inclusion of Migrants and Refugees: A Gateway to Existing Ideas, Resources and Capacities for Cities across the World](#), 2020, 46.

## ► Cross-border, regional and interregional social dialogue

The issue of international labour migration is taking a progressively more prominent role within regional and subregional integration processes. Tripartite social dialogue is increasingly being brought to bear in these processes. Selected examples from different geographical regions follow.

In [Africa](#), at the continental level, the African Union (AU) established the Labour Migration Advisory Committee (LMAC) in April 2019. As a regional tripartite mechanism, the LMAC advises governments on improving labour migration governance and safeguarding the rights of migrant workers and their families. Furthermore, the AU's revised Migration Policy Framework for Africa and Plan of Action (2018–2030)<sup>62</sup> highlight the importance of tripartite dialogue and cooperation regarding labour migration and its partnerships with other regional entities, such as the European Union (EU) and the League of Arab States.

Several regional economic communities in Africa have made significant progress in engaging social partners on labour migration issues. For instance, the Southern African Development Community (SADC) Labour Migration Action Plans (2016–19 and 2020–25) were built through "tripartite-plus" discussions supported by the ILO. The most recent plan aims to promote skills transfer and to match labour supply and demand for regional development and integration<sup>63</sup>. The East African Community (EAC) has been working with subregional social partner organizations to develop an East African Labour Migration Policy Framework,<sup>64</sup> while the Economic Community of West African States (ECOWAS) has established a tripartite social dialogue forum on labour migration that adopted a mixed migration framework in 2019.<sup>65</sup>

A commitment was made by the Ministers of Labour and Employment from the Intergovernmental Authority on

Development (IGAD) countries in Eastern Africa in 2021 to formulate a coordinated policy addressing the impact of natural disasters and climate change on the economies and labour markets of IGAD Member States. The Djibouti Declaration on Labour, Employment and Labour Migration in the IGAD Region emphasizes the need to uphold the principles of tripartism and social dialogue at all levels of policy and decision-making.<sup>66</sup>

In the [Americas](#), the ILO has promoted the engagement of social partners in labour migration issues through regional platforms such as the South American Conference on Migration and the Regional Conference on Migration.<sup>67</sup> In November 2022, the first tripartite meeting on labour migration and mobility in San José brought together seven countries from Central America and the Dominican Republic. Countries in the region are increasingly recognizing the value of social dialogue, with this being particularly evident in the active participation of social partners in implementing the regional strategy<sup>68</sup> for the socioeconomic integration of Venezuelan refugees and migrants.<sup>69</sup> The ILO has developed a regional strategy to guide its action on labour migration and human mobility in Latin America and the Caribbean over the period 2023–2030 through a tripartite consultation process across 37 countries and territories.<sup>70</sup>

In the [Arab States](#), in November 2021, the ILO and the African Union Commission organized the first interregional tripartite technical meeting between Africa and the Arab States, addressing challenges related to decent work and fair migration from the perspectives of countries of origin and destination. Another interregional meeting on labour mobility between Asia and the Arab States in 2019 brought together a wide range of stakeholders, including governments and the social partners, to exchange

<sup>62</sup> See: African Union, *The Revised Migration Policy Framework for Africa and Plan of Action (2018–2030)*, 2019.

<sup>63</sup> See: SAMM Project, *"SADC's Labour Migration Action Plan (2020–2025)"*, 2020.

<sup>64</sup> See: ILO, *"Press Release on Specialists Meet to Develop Labour Migration Policy Framework for East Africa"*, 15 June 2017.

<sup>65</sup> ILO, *Trade Unions Manual to Promote Migrant Workers' Rights and Foster Fair Labour Migration Governance in Africa*, 2021.

<sup>66</sup> See: *Djibouti Declaration on Labour, Employment and Labour Migration in the IGAD Region*, 2021.

<sup>67</sup> See: CSM, *"XX Conferencia Suramericana sobre Migraciones"*, 2022; and RCM, *"Regional Conference on Migration"*.

<sup>68</sup> ILO, *ILO's Work to Strengthen the Socioeconomic Integration of Venezuelan Refugees and Migrants in Latin America and the Caribbean*, 2023.

<sup>69</sup> Venezuela faces one of the world's largest displacement crises, with around 6.14 million refugees and migrants in Latin America and the Caribbean, and over 7.13 million globally, see UNHCR, *"Venezuela Situation"*.

<sup>70</sup> ILO, *"Press Release on Latin America and the Caribbean Develop Regional Labour Migration Strategy"*, 15 May 2024.

knowledge, experience and good practices with a specific focus on women migrant workers.<sup>71</sup>

In [Asia and the Pacific](#), the Association of Southeast Asian Nations (ASEAN) is addressing labour migration issues through social dialogue, as outlined in the ASEAN Labour Ministers' Work Programme, 2021–2025.<sup>72</sup> The annual ASEAN Forum on Migrant Labour,<sup>73</sup> supported by the ILO, provides a platform for tripartite dialogue to promote the principles of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.<sup>74</sup> Since 2016, the ASEAN Confederation of Employers (ACE) and the ASEAN Trade Union Council (ATUC) have engaged in dialogues to identify common interests in labour migration and to collaborate on issues such as skills recognition, social protection, ethical recruitment and migrant worker protection. During their third joint dialogue on labour migration in Tokyo, held in early 2023, the ACE and ATUC reaffirmed "the value of tripartism and social dialogue as means to achieve better labour migration governance".<sup>75</sup>

Responding to climate change is clearly a challenge that demands cooperation between countries. Cross-border social dialogue on the links between climate change and labour migration could make an invaluable contribution to policymaking in this sphere. Although evidence of such social dialogue is as yet limited, some tripartite consultations have started to occur. For instance, in the Pacific region, a tripartite high-level forum on climate change and decent work in July 2019 involved representatives of government, employers and workers from 11 [Pacific Islands](#) as well as [Australia](#) and [New Zealand](#). The agenda included topics related to labour migration and adaptability to climate change. Climate change impacts often intersect with other factors influencing mobility in the region, potentially increasing the demand for both internal and international migration opportunities. In the short term, migration associated with

climate change is expected to align with current migration patterns towards labour market opportunities in urban areas and Pacific Rim countries. Several Pacific Islands Countries have engaged in labour mobility schemes with [Australia](#), [New Zealand](#) and the [United States of America](#). The extent of multi-stakeholder engagement, including of workers' and employers' organizations, in the design and implementation of these schemes is extensive in some countries, but varies widely in intensity.<sup>76</sup>

In [Europe](#), the European Dialogue on Skills and Migration organized by the European Commission in 2016 and 2017<sup>77</sup> provided a platform for social partner engagement. Other initiatives include the European Partnership on Integration signed by the European Commission and EU economic and social partner organizations in 2017, with their commitment reaffirmed in 2022,<sup>78</sup> to simplify skills recognition for refugees and migrants. Under the New Pact on Migration and Asylum, an initiative called Talent Partnerships,<sup>79</sup> which launched in 2021, aims to improve migration cooperation with partner countries, matching the skills of workers from outside the EU with EU labour market needs, again with social partner engagement. In addition, the Labour Migration Platform, launched in January 2023, gathers the European Commission and EU Member States' migration and employment representatives, as well as the EU social partners, to enhance discussions and cooperation on regular migration and employment and support the effective operationalisation of EU-level initiatives in this area.<sup>80</sup>

[Bilateral labour migration agreements \(BLMAs\)](#) facilitate cooperation between countries to ensure the fair treatment of migrant workers.<sup>81</sup> Several countries in Africa and Asia have entered into such agreements. The [Philippines](#), for example, has concluded 13 agreements with different countries of destination. Some European countries (such as [Belgium](#), [France](#) and [Germany](#)) actively engage in the

<sup>71</sup> ILO, "[Africa – Arab States Tripartite Interregional Meeting on Labour Migration](#)", 2021; and ILO, "[Asia-Arab States and Africa Inter-regional Meeting on Safe and Fair Migration for Women Migrant Workers](#)", 2019.

<sup>72</sup> ASEAN Secretariat, [ASEAN Labour Ministers' \(ALM\) Work Programme 2021–2025 and Work Plans of the Subsidiary Bodies](#), 2021.

<sup>73</sup> ILO, "[The ASEAN Forum on Migrant Labour](#)", 2021.

<sup>74</sup> ASEAN Secretariat, [ALM Work Programme 2021–2025](#).

<sup>75</sup> Australian Aid, Canada, ILO, ACE and ATUC, [Third Joint Dialogue on Labour Migration between the ASEAN Confederation of Employers and the ASEAN Trade Union Council: Joint Statement](#), 2023, 2.

<sup>76</sup> IOM and ILO, "[Pacific Climate Change Migration and Human Security](#)", Climate Change and Labour Mobility in Pacific Island Countries Policy Brief, June 2022.

<sup>77</sup> See: European Commission, "[Cooperation with Economic and Social Partners](#)".

<sup>78</sup> European Commission, "[European Partnership for Integration](#)".

<sup>79</sup> European Commission, "[Press Release on Talent Partnerships: Commission Launches New Initiative to Address EU Skills Shortages and Improve Migration Cooperation with Partner Countries](#)", 11 June 2021.

<sup>80</sup> European Commission, "[Labour Migration Platform](#)".

<sup>81</sup> See: UN Network on Migration, [Guidance on Bilateral Labour Migration Agreements](#), 2022.

forging of BLMAs for recruiting low- to medium-skilled workers in sectors like care work, construction, hospitality and agriculture (Chilton and Woda, 2022).<sup>82</sup> An exemplary case of tripartite collaboration in this respect is the [Germany–Philippines BLMA](#) (referred to as the “Triple Win Programme”) signed in 2013, which facilitated the

deployment of Filipino health professionals to Germany. The draft African Union guidelines on Bilateral Labour Agreements<sup>83</sup> have been formulated through tripartite and stakeholder consultations, encompassing all 55 AU Member States and addressing both intra-Africa and interregional labour migration issues.

## ► Conclusions and the way forward: How to strengthen the role of social dialogue in the governance of international labour migration

The evidence presented demonstrates that social dialogue has been used throughout the world to good effect in dealing with labour migration governance challenges. The engagement of governments with the social partners, from the initial development to the subsequent implementation, monitoring and evaluation of labour migration policies, has proved its value. Yet the evidence base remains slim, and positive experiences of social dialogue appear to still be the exception rather than the rule.<sup>84</sup> More efforts are needed to ensure not only that employers’ and workers’ organizations are fully and systematically involved in social dialogue for the elaboration, implementation and monitoring of labour migration policies, but also that they have the required information and capacity to engage meaningfully in these processes.

Furthermore, more research evidence is needed of the nature and impact of the involvement of social partners in social dialogue for labour migration governance, throughout the policy cycle. Too often, documented examples of social dialogue stop at the “adoption” stage of a policy or other measure, and do not go on to explore what happened during its subsequent implementation.

### How to strengthen the role of social dialogue in labour migration governance

The following suggestions present possible ways to strengthen the role of ILO constituents and of social dialogue in contributing to the fair, effective and inclusive governance of international labour migration. These recommendations are derived from and build upon the research conducted for this policy brief. The intention is to stimulate discussion and action in the labour migration community – in particular among ILO constituents, but also more broadly.

#### ► Create an enabling environment for tripartite social dialogue on labour migration.

Institutionalized tripartite social dialogue mechanisms equipped to address all questions related to the recruitment, employment and protection of migrant workers are needed. Integrating the ILO’s Decent Work and Fair Migration Agendas into national consultations and policies on labour migration is crucial. Pre-conditions include a supportive legal and institutional framework for social dialogue, and strong and independent social partners with the necessary capacity to address labour migration issues.

<sup>82</sup> On the increasing use of BLMAs, see: Adam Chilton and Bartosz Woda, “The Expanding Universe of Bilateral Labor Agreements”, *Theoretical Inquires in Law* 23, No. 2 (2022), 1–64.

<sup>83</sup> African Union, [AU Guidelines on Developing Bilateral Labour Agreements \(BLAs\)](#), 2022.

<sup>84</sup> The same observation was made by the ILO in 2017. See: ILO, [Addressing Governance Challenges in a Changing Labour Migration Landscape](#), ILC.106/IV (2017), 26.



- Ensure that all key labour migration actors have a seat at the table.

An inclusive approach to social dialogue can contribute to understanding and addressing labour migration-related challenges in different countries and regions, creating opportunities for diverse voices to be heard and for all workers to be represented, as well as building consensus based on democratic participation in representative workers' and employers' organizations. Particularly important is that the voices of different groups of migrant and refugee workers (women and men, different national origins and occupational groups, and so on) are themselves heard and taken into consideration in policy deliberations. It is incumbent upon the social partners to reach out to, organize and represent these groups. Furthermore, the different parts of government involved in labour migration governance, including those beyond Ministries of Labour, need to be brought on board in the policy dialogue.

- Ratify and implement relevant ILO Conventions, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and eliminate legal and practical barriers that hinder migrant workers' access to freedom of association and collective bargaining rights.

Migrant workers' rights to freedom of association and the effective recognition of the right to collective bargaining must be upheld,<sup>85</sup> including through removing legal and practical barriers to their enjoyment of these rights. Migrant and refugee workers should be permitted to join and form independent trade unions and the registration process of these trade unions should be facilitated. The promotion of collective bargaining, the extension of collective bargaining agreements to cover non-unionized workplaces, and the

adoption of specific measures to promote collective bargaining in largely non-unionized sectors that are dominated by migrant workers (such as domestic work) can result in significant advances in migrant and refugee workers' rights and working conditions.<sup>86</sup>

- Facilitate the involvement of the social partners throughout the entire cycle of labour migration policy formulation, implementation, monitoring and evaluation.

Participation of the ILO tripartite constituents in national and regional processes can strengthen the effectiveness and sustainability of labour migration policies, including those on fair recruitment, protection of migrant workers, skills development and recognition of qualifications. Such participation can also work to improve public perceptions. Once policies are adopted, workers' and employers' organizations can promote their acceptance among their members. The ILO's [Practical Guide on Developing Labour Migration Policies](#) provides guidance and specific examples of how employers' and workers' organizations can contribute to sound policy formulation, implementation and monitoring in countries of origin and destination.

- Temporary labour migration can be positive for both countries of origin and destination, filling genuine short-term labour and skills gaps in certain sectors, provided they are rights-based and developed through social dialogue.

Temporary labour migration programmes and bilateral agreements that regulate them have faced significant criticism<sup>87</sup> regarding deficiencies in their transparency and monitoring mechanisms and in the extent of consultation with the social partners in both origin and destination countries.<sup>88</sup> Temporary labour migration

<sup>85</sup> In May 2022, the ILO participated in the International Migration Review Forum to assess progress on the UN Global Compact. The forum highlighted slow and uneven progress in facilitating safe migration, worsened by the COVID-19 pandemic. Countries need ambitious responses for implementing the UN Global Compact, including freedom of association, collective bargaining and tripartite social dialogue. See: UN General Assembly, [Draft Resolution Submitted by the President of the General Assembly: Progress Declaration of the International Migration Review Forum](#), A/AC.293/2022/L.1 (2022).

<sup>86</sup> See: ILO, [Migrant Workers' Rights to Freedom of Association and Collective Bargaining](#), 93-97. This report identifies specific suggestions for action that trade unions and employers and their organizations can take to promote freedom of association and collective bargaining rights for migrant workers,

in addition to action by governments; and ILO PROSPECTS, [Review of national policy, legislative and regulatory frameworks and practice: A baseline study on the right to work and rights at work for refugees](#), 2023.

<sup>87</sup> See Pirkko Pitkänen and Tomoko Hayakawa, "Conclusion: Challenges and Future Prospects of Temporary Transnational Migration", in *Temporary Migration, Transformation and Development: Evidence from Europe and Asia*, ed. Pirkko Pitkänen et al., 258-273 (London: Routledge, 2019); ILO, [Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review](#), 2015; and OECD, [Migration for Employment: Bilateral Agreements at a Crossroads](#), 2004.

<sup>88</sup> A 2022 ILO Governing Body paper on temporary labour migration highlights that governments often do not undertake sufficient consultation with

programmes may generate challenges for organizing and integrating migrants into trade unions. Greater efforts are needed to strengthen social dialogue mechanisms in the design and implementation of such programmes to ensure they protect workers' rights, including freedom of association and the right to collective bargaining; afford equal treatment in accordance with national laws and regulations and international obligations; and are based on accurate assessments of skills needs and gaps, including offering possibilities for upskilling and retraining of both migrant and national workers. The private sector, employers' organizations and workers' organizations have complementary roles to play in providing up-to-date information to policymakers on labour market needs. Good practice is emerging in some countries – for example, imposing an obligation on employers in certain sectors to consult trade unions before work permit applications are processed under temporary employment programmes.<sup>89</sup>

► **Strengthen the role of social dialogue and facilitate the involvement of social partners in bilateral and multilateral migration agreements (BLMAs).**

While the use of BLMAs is on the rise, there are still limited examples of institutionalized social dialogue or social partner engagement in relation to them. When based on social dialogue, BLMAs can better address both labour market needs and the protection of migrant workers, and be useful migration governance tools to facilitate safe, regular and orderly labour migration between countries. The [Guidance on Bilateral Labour Migration Agreements](#), issued by the UN Network on Migration in 2022, stresses the key role of social dialogue in the preparation, implementation, monitoring and evaluation of BLMAs, as well as the need for such agreements to cover the entire migration cycle and benefit origin and destination countries equally.<sup>90</sup> Employers' organizations can contribute to the identification of skills in demand in destination countries and possible skills gaps in origin countries; while workers' organizations can help identify areas where the protection of migrant workers needs improvement and

suggest appropriate solutions. Unions have called for including a standard procedure in BLMAs requiring consultation with the social partners and a monitoring and follow-up mechanism.<sup>91</sup> The Germany–Philippines Bilateral Labour Agreement on Nurses, wherein trade unions are part of the joint monitoring committee, is a notable example of good practice in this regard.

► **Address the dissonance that may emerge between admission and migration policies and labour law by ensuring the involvement of Labour Ministries and other labour market stakeholders for the better integration of labour market concerns and worker protections within migration policies.**

Most often, migration is treated primarily as a "security issue" to be dealt with by Ministries of Interior, Immigration or Foreign Affairs, which tend to focus on admission criteria for foreigners. Ensuring coherence between migration, labour and other policies necessitates the involvement of Ministries of Labour, other relevant parts of government and of the social partners, who can offer valuable insights into labour market needs, including with respect to establishing quotas and shortage occupation lists. It is equally crucial that the fundamental rights to freedom of association and collective bargaining are not compromised or restricted by immigration law.

► **Promote cross-border social dialogue, including in the context of regional integration and of global challenges such as climate change.**

Given the increasing influence of regional agreements on how people move and under what conditions, cross-border social dialogue is needed to harmonize labour policies across countries, addressing issues such as the recognition of professional qualifications, social security coverage and the portability of benefits. Strengthened cross-border social dialogue is also fundamental in the context of protecting migrant workers from the impacts of global challenges such as climate change. The consolidation of labour migration agreements in the context of regional economic communities has the potential to strengthen the role of national labour

employers' and workers' organizations when designing and implementing such schemes. See: ILO, [Temporary Labour Migration](#), GB.346/POL/1 (2022), 13.

<sup>89</sup> ILO, [Temporary Labour Migration: Unpacking Complexities – Synthesis Report](#), 2022, 35.

<sup>90</sup> UN Network on Migration, [Guidance on Bilateral Labour Migration Agreements](#), February 2022, 8.

<sup>91</sup> Nicola Yeates and Nora Wintour, [Temporary Labour Migration: Two Studies on Workers' Perspectives and Actions](#), 2021, 32.

ministries and public employment schemes, as well as to promote tripartite dialogue at both the national and regional levels.<sup>92</sup>

▶ **Consider engagement with other stakeholder groups to gain additional perspectives on labour migration issues.**

Trade unions, in particular, may wish to establish or strengthen their connections and collaboration with civil society organizations, particularly those advocating for migrant workers' rights. This is especially important where legal constraints prevent or make it difficult for migrant workers to organize or join trade unions. The tripartite constituents may consider inviting such groups to contribute to labour migration-related consultations where they agree this would bring added value.

▶ **Build the evidence base on labour migration and disseminate information to the public.**

The collection and sharing of better data and information on migrant workers, including their coverage by collective bargaining agreements, will lead to more informed social dialogue. The capacity of the social partners should be strengthened through the provision of training on labour migration issues and the facilitation of tripartite platforms for social dialogue aimed at policy learning and good practice exchange.<sup>93</sup> Public information campaigns regarding the economic, social and cultural contributions of migrant workers will help raise awareness and appreciation of them within host communities.

#### Contact details

##### International Labour Organization

Route des Morillons 4  
CH-1211 Geneva 22  
Switzerland

Social Dialogue, Labour Relations and Governance of  
Work Branch  
E: labgov@ilo.org

Labour Migration Branch  
E: migrant@ilo.org

DOI: <https://doi.org/10.54394/GMYI2601>

<sup>92</sup> Yeates and Wintour.

<sup>93</sup> ILO, *Follow-up to the resolution concerning fair and effective labour migration governance*, GB.331/INS/4/1(Rev.) (2017), para. 14(a-f).