International Labour Organization | Fair Recruitment Initiative

Thematic Note: Ensuring fair recruitment for migrant care workers

ILO Fair Recruitment Initiative

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▶ Contents

▶ Key points

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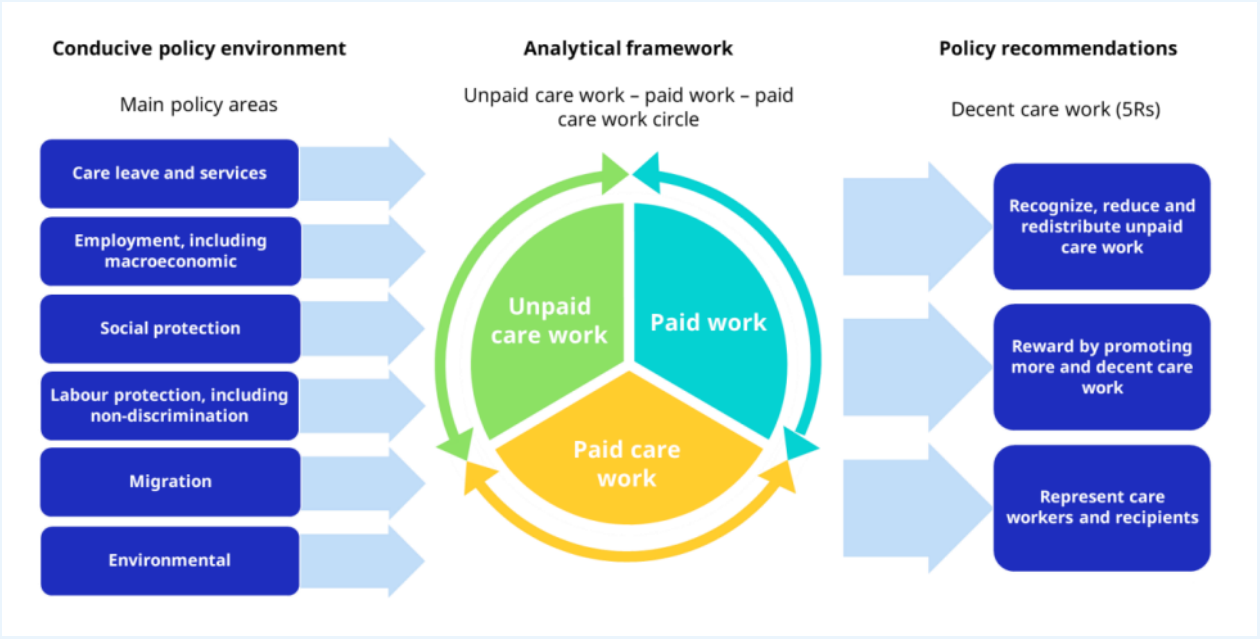
- Globally, care needs continue to grow in line with demographic changes including ageing populations. Labour migration also continues to grow, with migrant workers representing nearly five per cent of the global labour force.[1]
- The global care workforce comprises 381 million workers: 249 million women and 132 million men. Migrant workers – especially migrant women – represent a critical group of workers in care workforces around the world.[2]
- Significant investments and policy progress is needed to ensure that labour migration structures and care systems are fit to meet the world's growing care needs, sustain and enhance the quality of care services, and protect migrant care workers' rights.
- Measures to ensure good governance of labour migration and fair recruitment for migrant care workers requires action to ensure that there are adequate regular migration pathways designed to meet labour market needs; measures to strengthen regulation and monitoring of the recruitment process, including the roles of Public Employment Services (PES) and Private Employment Agencies (PEAs); specific measures to address discrimination in recruitment and ensure protection for migrant care workers in non-standard forms of employment, including platform work; mechanisms for skill development and recognition – ensuring that migrant care workers' skills are can better contribute to economies and societies in countries of origin and destination.
- Action to eliminate barriers of migrant care workers to realizing their rights to freedom of association and collective bargaining is critical to achieve progress. This includes organizing, policy advocacy, service provision and outreach to migrant workers.
- To ensure effectiveness and sustainability, these measures must be implemented within the broader framework of investments in care policies and systems that yield positive health and economic outcomes and advance gender equality, in line with the ILO's 5R Framework.

[1] ILO (2021) Report: ILO Global Estimates on International Migrant Workers – Results and Methodology.

[2] ILO (2018) Care work and care jobs.

▶ Text box 1: The 5R Framework for Decent Care Work

The care economy is highly intersectional. The ILO's 5R framework for Decent Care Work (Recognize, Reduce, Redistribute, Reward and Representation) asserts that progress must be made in 6 intersecting policy areas: care leave and services, employment (including macroeconomic), social protection, labour protection (including non-discrimination), migration and environmental.



Source: Decent work and the care economy, Geneva: International Labour Office, 2024. © ILO

▶ What is care work? Who are care workers? Who are care employers?

Care work, both paid and unpaid,[3] is at the heart of humanity, our societies and economies.

Care work consists of two overlapping activities: direct, personal and relational care activities (such as basic healthcare, personal care, and assistance with mobility and activities of daily living), and indirect care activities (such as cooking and cleaning). Care work services are provided in a variety of settings, including clinical facilities, nursing or care homes, communities and private homes. Services are usually provided by a mix of public, private for-profit and non-profit service providers.[4] The nature of care work – delivered at the intersection of health and social systems – calls for a whole of government approach, bringing together policies on employment, migration, health, education, social protection, financing and gender, among others.

The **global (paid) care workforce comprises 381 million workers** – 249 million women and 132 million men. Significantly for women, care work represents 11.5 per cent of total global employment, and almost one-fifth (19.3 per cent) of global employment of women.[5] Paid care workers comprise a highly diverse workforce including highly qualified workers and those without any formal care training or qualification. The care workforce includes a variety of groups of workers performing work in different areas such as: early childhood care and education; health and social work, including community health and long-term care work; related community work, including community education and social workers, and domestic workers. **Domestic workers**, who provide both direct and indirect care in or for a household or households, are not only a significant part of the care workforce globally, but in some of parts of the world they constitute the largest share of workers in the care economy, particularly where there is little to no public care sector.[6] Even when counting only those employed directly by households, domestic workers account for 25 per cent of all care workers, with that proportion becoming much higher when also considering those employed by or through service providers. [7]

Employers of care workers are diverse and the work is provided in both formal and informal employment situations. Employers may be government agencies, private enterprises, non-profit organizations and private households. Care workers may be directly employed by and work for enterprises or be employed in multi-party employment (including by temporary work agencies). Care work is also emerging as a form of digital platform work ("gig economy"). Employment relationships in the care economy may also be complicated by a blurring of distinction of the relationship between the care employer and the care beneficiary – for example when they are one in the same, it may affect working conditions and workers' empowerment to claim labour rights. In the case of domestic workers, these boundaries can be further blurred when the worker lives within the household or is considered as a "family member", or when the work performed is devalued/not considered as "real work".

3 Unpaid care work is care work provided without a monetary reward by unpaid carers – the majority of whom are women and girls from socially disadvantaged groups. It is considered work and hence a crucial dimension of the world of work.

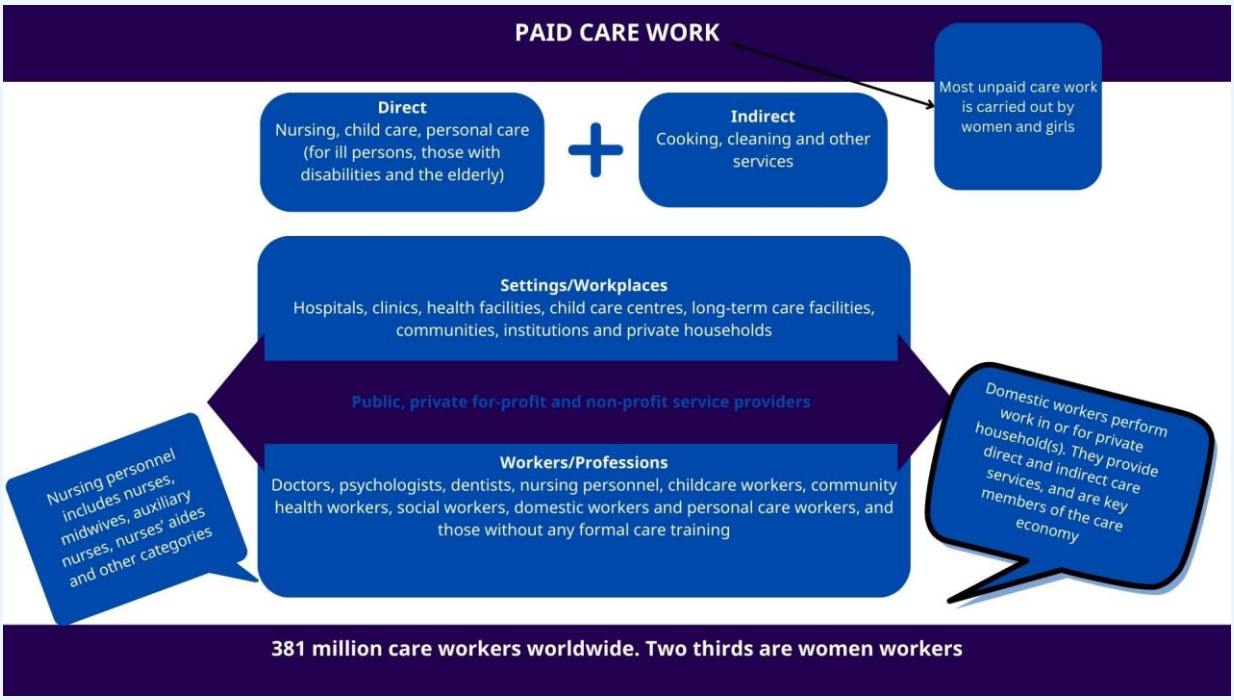
4 ILO (2020) COVID-19 and care workers providing home or institution-based care.

5 WHO (2020) State of the world's nursing.

6 ILO (2018) Care work and care jobs for the future of decent work.

7 ILO (2024) From global care crisis to quality care at home: The case for including domestic workers in care policies and ensuring their rights at work.

▶ Figure 1: Understanding care economy workers



Source: Author's own.

Around the world, the majority of countries have an insufficient number of adequately trained care workers, and demographic, socio-economic and environmental transformations are increasing the demand for care workers. [8] Undervaluation of care work, chronic underfunding of public health services and poor working conditions contribute to these shortages. ILO research has found that if not addressed properly, current deficits in care service provision and its quality will create a severe and unsustainable global care crisis that has an impact on workers, beneficiaries and further increase gender and racial inequalities in the world of work.[9]

While the challenges surrounding decent work in the care economy are high, there are also many opportunities. Adequate investments in the care economy can support female labour force participation, advance gender equality, and create new jobs, with the ILO estimating the potential to creation 117 million additional new jobs, bring the total number of jobs to 475 million.[10]

▶ Text box 2: Our Common Agenda: Report of the Secretary-General

The 2021 report "**Our Common Agenda: Report of the Secretary-General"** makes reference to care work, calling for investment in the care economy as a means of job creation and for facilitating women's economic inclusion, noting that we must rethink the value of care work as an essential public service:

> *"Investment in sectors with the greatest potential for creating more and better jobs, such as the green, care and digital economies, is key and can be brought about through major public investment, along with incentive structures for long-term business investments consistent with human development and well-being."*

United Nations (2021) Our Common Agenda: Report of the Secretary-General

[8] ILO (2018) Care work and care jobs for the future of decent work.
[9] ILO (2018) Care work and care jobs for the future of decent work.
[10] ILO (2018) Care work and care jobs for the future of decent work.

▶ Text box 3: The intersection between care work and gender equality

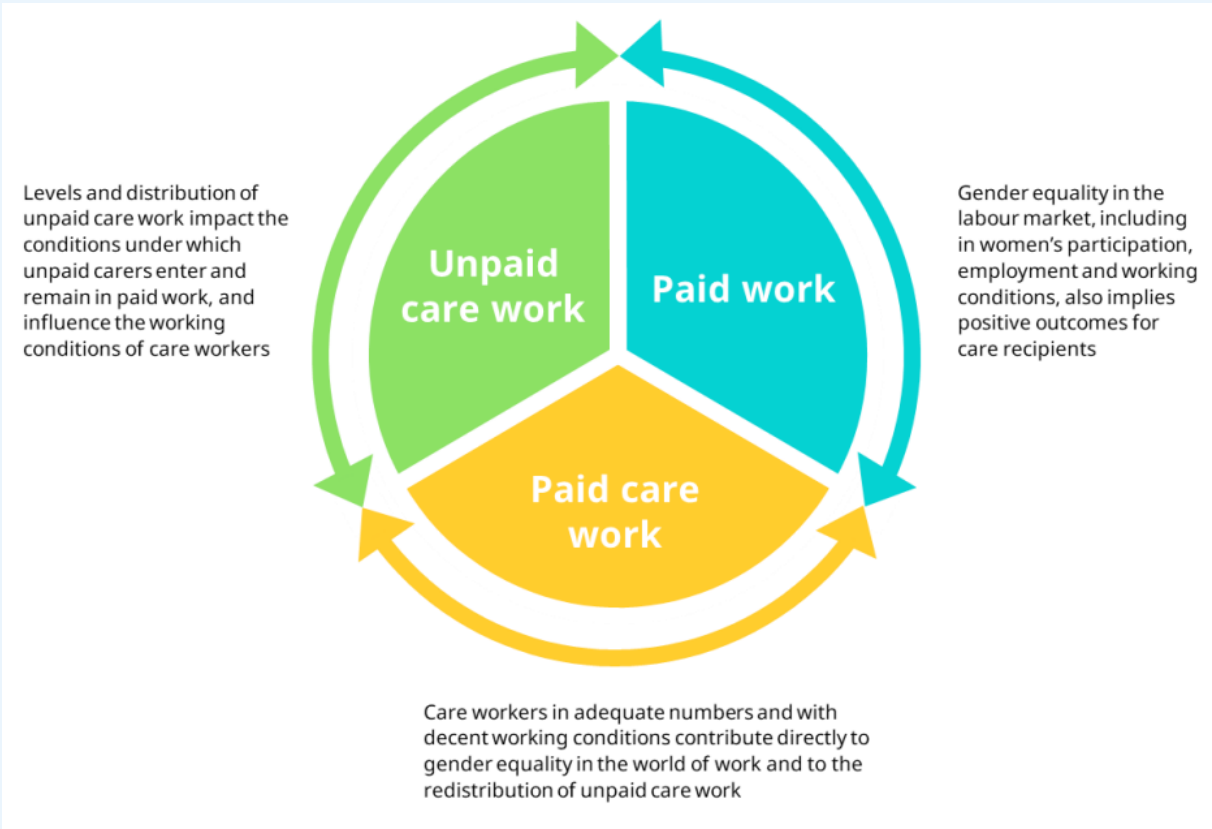
There are strong links between care work and gender equality. Globally women perform 76.2 per cent of all unpaid care work,[11] more than three times the amount as men. Unpaid care work forms a major structural barrier to female labour market participation, as it constrains women's availability for quality paid employment while reinforcing gender gaps in paid work. The conditions under which care work is performed (both paid and unpaid) influence each other and affect inequalities in paid work within and outside the care economy, increasing or diminishing gender equality in the labour market.

Achieving gender equality at work requires a transformative agenda which:

- ensures equal opportunities, equal participation and equal treatment, including equal remuneration for women and men for work of equal value;
- enables a more balanced sharing of family responsibilities;
- provides scope for achieving better work–life balance by enabling workers and employers to agree on solutions, including on working time, that consider their respective needs and benefits; and;
- promotes investment in the care economy[12]

See also: ILO (2022) Theory of Change towards a transformative agenda for gender equality in the world of work

▶ Figure 2: The unpaid care work – paid work – paid care work circle



Source: Decent work and the care economy, Geneva: International Labour Office, 2024. © ILO

[11] ILO (2018) Care work and care jobs.

[12] ILO Centenary Declaration for the Future of Work, 2019.

▶ The intersection between migration and care work

According to ILO estimates, there are 169 million migrant workers worldwide – including 99 million men and 70 million women. International migrants have higher labour force participation rates than non-migrants and are mainly concentrated in the service sector.[13] **Migrant workers – especially migrant women – represent a critical group of workers within care infrastructures and workforces around the world.** One in eight nurses (13 per cent) are migrant workers (calculated as foreign born or trained) – a total of 3.7 million nurses globally.[14] [15] 17 per cent of all domestic workers worldwide are migrant workers.[16] In Organisation for Economic Co-operation and Development (OECD) countries, on average, "foreign-born" workers represent over 20 per cent of the long-term care workforce, which is double the overall share of foreign-born workers in the total population. In addition, these OECD statistics often fail to include live-in home care work, where migrant workers might be overrepresented in some countries (such as Italy and Spain).[17] In other countries, for example in the Arab States, migrant workers constitute the largest share of domestic workers, who, as noted above are often the primary source of care delivery within the household in a number of regions.[18]

Migrant care workers are not a homogenous group – they have a broad range of profiles and take different migration pathways, for example including migrants with settled status, those who live and work under temporary labour migration schemes/visas, as well as migrant workers in an irregular migration situation. The migration journey is also usually not linear: many women migrant workers might migrate without the specific intention to work as care workers but, once at destination employment opportunities as care worker, an in particular domestic work, are often more easily accessible then other types of work. Whether or not they have a work or residence permit, they can also be working under a variety of formal or informal employment relationships. Migration and employment status can have critical implications, among others, on access to public services including care services for workers themselves. Migration corridors are also more complex than the traditional "South to North" migration or "origin" and "destination" understanding. For example, migration corridors for nursing personnel are shifting, with the European Union (EU) experiencing an increase in east-to-west migration flows among its Member States. Increased "South to South" migration flows are also apparent, from South and South-East Asia to West Asia and within Africa, where most migration flows are intra-regional. More complex patterns of mobility have also emerged, not only in terms of geography, but also in terms of "temporality (contract duration) and directionality (circular and two-step migration)."[19]

Recognizing growing care needs, many countries have pursued a strategy to train care workers with the specific purpose of meeting labour market needs in foreign countries, while others actively recruit to fill shortages in sectors of the care economy that have become less attractive to national workers. In this context – these "countries of destination" economies are able to recruit qualified care workers without the associated high costs of education and training. A phenomenon which poses challenges for countries of origin. See discussion below on mitigating the impact of out-migration of care workers on fragile health care systems.

[13] ILO (2021) ILO Global Estimates on International Migrant Workers – Results and Methodology – Third edition.

[14] WHO (2020) State of the world's nursing.

[15] See also ILO data on "Proportions of foreign-born persons among care workers in education and in health and social work" and "Proportion of foreign-born female domestic workers (employed by households)" in ILO (2018) Care work and care jobs.

[16] ILO (2015) Global estimates on migrant workers: Results and methodology. Special focus on migrant domestic workers.

[17] OECD Health Policy Studies (2020) Who Cares? Attracting and Retaining Care Workers for the Elderly.

[18] ILO (2015) Global estimates on migrant workers: Results and methodology. Special focus on migrant domestic workers.

[19] ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy.

▶ Challenges for protection of migrant care workers' rights

While labour migration affords workers new opportunities and can contribute to development outcomes, the migration process is complex in terms of governance, and weaknesses can lead to protection gaps for migrant workers. As issues concerning migrant care workers sit at the nexus of labour, migration, demographic and care policies, coherence among these interlinked policy objectives must be achieved. A lack of policy coherence creates inconsistencies and gaps that affect employers' needs, the functioning of the care system, workers' conditions of work and rights protection, as well as the quality of care provided to care beneficiaries. This is particularly the case in contexts where care provision is mainly the responsibility of individual families, as opposed to systems were state-provided care is more dominant. In the former, women migrant domestic workers, often excluded from the scope of labour protections, tend to become a "low cost" solution to care needs of families and individuals.

Inequalities of opportunities and treatment with national workers act as an underlying cause and a consequence of decent work deficits. In addition, migrant women are found to suffer discrimination in the labour market on multiple grounds, not only on the basis of nationality, but also because of migrant status, sex, gender identity, religion, ethnicity, maternity and family responsibilities.[20] They may also face sexual harassment and violence. ILO research on the "migrant pay gap" reports significant gender discrimination – with migrant women workers facing a double wage penalty. The pay gap between migrant care workers and non-migrant care workers is about 19.6 per cent compared to the aggregate migrant pay gap of 12.6 per cent.[21] These data need to be read in conjunction with available statistics on the gender pay gap in the health care sector, which indicate that women migrant care workers suffer a double jeopardy: average earnings in the sector are lower than other sectors, and a 24 per cent gender pay gap, which is, on average, higher than in non-health sectors.[22]

Social protection – including health care, maternity, unemployment and retirement benefits – and the care needs of migrant care workers is also a critical concern. Investments in adequate social protection along with good working conditions improves the quality of care jobs with ultimate benefits for care workers and recipients. However migrant workers in general face challenges in accessing social protection – they may be denied access or benefits because of their migration status or nationality, or due to the insufficient duration of their periods of employment and residence. In addition, the absence or weak implementation of bilateral or multilateral agreements may prevent migrant workers from maintaining their earned benefits and benefits in the course of acquisition. The high level of informality among migrant domestic workers also functions as a significant barrier to social protection.[23]

Maternity protection is in particular an area where migrant care workers face discrimination and barriers to access and benefit. ILO standards mandate the full respect of maternity protection rights, including leave, benefits and employment protection, for "any female person without discrimination whatsoever".[24] However in practice many categories of workers are legally excluded from maternity leave coverage, with a disproportionate effect on migrant workers; domestic workers; casual and some temporary workers; some categories of part-time workers, among others.[25] As some countries require migrant workers who are pregnant or no longer employed to leave the country, access to maternity benefits would allow women migrant workers to access maternity benefits and resulting income security and health protection. Social security agreements between countries of origin and destination can serve as an important means to extend these rights to migrant care workers.[26]

For a list of relevant international standards, see Annex 1.

[20] ILO (2016) Promoting fair migration: General Survey concerning the migrant workers instruments.

[21] ILO (2020) The migrant pay gap: Understanding wage differences between migrants and nationals.

[22] ILO (2022) The gender pay gap in the health and care sector: A global analysis in the time of COVID-19.

[23] On how to extend social protection to migrant domestic workers, see ILO (2021) Intervention Model: For extending social protection to migrant domestic workers.

[24] ILO Convention No. 183, Article 1.

[25] ILO (2022) Care at work: Investing in care leave and services for a more gender equal world of work.

[26] For more information see ILO (2022) Care at work: Investing in care leave and services for a more gender equal world of work.

▶ Text box 4: The impact of COVID-19 on recruitment and working conditions of migrant care workers

The COVID-19 pandemic had a devastating impact on healthcare systems and workers worldwide, exposing existing deficiencies in care workforce and labour migration infrastructure. The impacts on loss of working hours, loss of employment and labour income were not even – for example, evidence from the Philippines and Viet Nam indicates that domestic workers were 2-3 times more likely than other workers to lose their jobs during the pandemic.[27]

With regards to health consequences, the spread of the virus and COVID-19-related deaths could be linked to employment structures within the care work sector. For example, high rates of COVID-19-related deaths in care homes in Europe, Canada and the United States during the first wave of the pandemic were partly attributed to transmission through care workers on casual contracts, who were working in multiple facilities or private homes and working without sick leave entitlements and without social insurance or emergency income support. Care home workers were also reported to be lacking access to personal protective equipment (PPE), COVID-19 testing, and other protective measures – which put workers at risk of both contracting and transmitting the virus.[28]

The significant shortages of care work professionals highlighted during the pandemic led many governments to introduce emergency policy responses, such as fast-tracking recruitment and immigration procedures and simplification of recognition of skills in order to attract care workers. In many countries, care workers (alongside other categories of workers including transport, agriculture and food processing, for example) were designated "essential" or "key workers"[29] and excluded from certain restrictions (such as work from home orders), and also given priority for access to PPE and vaccines – with mixed results.[30]

[27] ILO News, 15 June 2021, "Domestic Workers' Day 2021: Informality and exclusion from labour laws remain barriers to decent work for Asia Pacific domestic workers.

[28] ILO (2020) ILO Sectoral Brief: COVID-19 and care workers providing home or institution-based care.

[29] However it should be noted that this classification of health as an essential service is sometimes used by certain countries to prevent of workers in the health sector from striking or unionize.

[30] For more information, see: ILO (2021) Report of the Director-General: Work in the time of COVID.

▶ The key fair recruitment considerations for migrant care workers

Fair recruitment has been described as "the origin of decent work". Well-regulated recruitment is critical for safe, orderly and regular migration, to meet the labour market needs of employers, and to place jobseekers into decent work jobs that match their skills and qualifications. Yet, evidence shows that both national and migrant workers continue to face abuses during their recruitment processes, which in turn heighten their vulnerability to decent work deficits, exploitation and labour and human rights abuses. Care worker migration creates unique challenges as compared to other sectors of work. Key fair recruitment considerations are outlined below.

▶ Text box 5: What is the ILO's definition and key guidance on fair recruitment?

Fair recruitment can be understood to mean "Recruitment carried out within the law, in line with international labour standards, and with respect for human rights, without discrimination and protecting workers from abusive situations". The ILO's General principles and operational guidelines for fair recruitment and definition of recruitment fees and costs (GPOG & Definition) is the key international instrument in this area. Drawing on the ILO Private Employment Agencies Convention, 1997 (No. 181), in addition to other key instruments and tools, the GPOG & Definition calls on the key actors – governments, enterprises and public employment services, labour recruiters and employers – to ensure fair recruitment processes, including elimination of worker-paid recruitment fees and related costs.

Regulation and monitoring of recruitment of migrant care workers

Regulation, monitoring and enforcement of laws and policies concerning the recruitment process is a critical factor in ensuring effective labour market functioning and protecting the rights of workers. Key considerations in the regulation of recruitment in care work include regulation of private employment agencies, elimination of abusive practices and ensuring effective remedial measures, ensuring equality of opportunity and treatment in recruitment, and protecting care systems.

The issue of recruitment of care workers has frequently been addressed within the context of initiatives to **mitigate the impact of out-migration of care workers on fragile health care systems.** The key international instrument in this area is the WHO Global Code of Practice on the International Recruitment of Health Personnel.[31] The key objective of the Code is to promote voluntary principles and practices that take into account the "rights, obligations and expectations of source countries, destination countries and migrant health personnel." A key principle of the Code is "Member States should take into account the right to the highest attainable standard of health of the populations of source countries, individual rights of health personnel to leave any country in accordance with applicable laws, in order to mitigate the negative effects and maximize the positive effects of migration on the health systems of the source countries." The WHO Secretariat also periodically publishes a "safeguards list" of countries who are facing serious health workforce shortages. The ILO Nursing Personnel Recommendation, 1977 (No. 157) provides further guidance in this manner, noting that recruitment of foreign nursing personnel should only be authorized if there is a lack of qualified personnel in the country of employment, and equally that there is no shortage of the required nursing personnel in the country of origin.[32] It also states that recruitment should take place in conformity with the Migration for Employment Convention (Revised), 1949 (No. 97).

A key actor in the international recruitment of care workers are **Private Employment Agencies (PEAs).** While well-regulated PEAs can contribute to well-functioning labour markets, migrant care workers are often at greater risk of exploitation and abuse by private employment agencies, particularly when poorly or unregulated intermediaries

[31] Adopted in 2010, the WHO Global Code elaborates ethical norms and seeks to contribute to strengthened management through improved data, information, and international cooperation. To date, 64 countries have incorporated Code provisions into national law, policy, or international bilateral agreements. A review of the code was conducted in May 2020, available here.

[32] ILO Nursing Personnel Recommendation, 1977 (No. 157), para. 67.

are involved.[33] Discrimination in recruitment is often a common practice and documented examples of recruitment abuses include deception about the nature and conditions of the work which may lead to contract substitution, worker-paid recruitment fees and related costs, debt resulting from loans to pay recruitment and migration costs, retention of identity documents, and non-payment and deduction of wages.[34] These abusive practices may amount to forced labour.[35] Domestic workers are particularly at risk of exploitation given the nature of their work which includes work in isolation in a private household, often being excluded from the full scope of the labour law and experiencing barriers to accessing justice in the case of abuse.[36] Their vulnerabilities are exacerbated in case they are in an irregular status or have paid very high fee for recruitment and migration which puts them in debt.

The issue of discrimination in recruitment is also a key factor. The ILO GPOG state that recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including addressing discrimination in respect of employment and occupation. It also states that recruitment-related costs should be regulated in ways to respect the principle of equality of treatment for both national and migrant workers. The WHO Code of Practice also makes reference to regulation of recruitment, stating that Member States should ensure that recruiters and employers ensure fair recruitment and contractual practices, including measures to address discrimination, specifically that migrant health personnel are hired, promoted and remunerated on the basis of equality of treatment with the domestically trained health workforce.

▶ Text box 6: Protecting the rights of domestic workers in recruitment

Domestic workers – in particular migrant women domestic workers – form of a critical part of care infrastructures globally. Due to the nature of the work and the lack of regulations and protections in place for domestic workers, they face particular exposure to exploitation and abuse during the recruitment process. To address these issues (and other critical aspects of domestic workers' rights), the ILO adopted the Domestic Workers Convention, 2011 (No. 189) and Recommendation (No. 201) in 2011. The Convention and Recommendation include important provisions for the protection of domestic workers recruited or placed by private employment agencies. These include:

- determining the conditions governing the operation of private employment agencies recruiting or placing domestic worker, adequate machinery for the investigation of complaints by domestic workers against abusive agencies;
- adoption of measures to adequately protect domestic workers and prevent abuses, including laws or regulations specifying the respective responsibilities of the agency and the household and providing for penalties;
- consideration of conclusion of bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices; and
- measures to ensure that fees charged by agencies are not deducted from the remuneration of domestic workers.

While the international recruitment landscape is increasingly dominated by private actors, **Public Employment Services (PES)** – also play an active role in recruitment in some contexts. For example, with PES taking an active recruitment role in government-to-government arrangements for recruitment of care workers. See example in the text box 8.

Regulation of migrant care workers in non-standard forms of employment, including temporary agency work

In certain contexts, care workers are increasingly employed in **non-standard forms of employment' (NSFE)** – including digital labour platform work ("gig economy work"), temporary employment, part-time and on-call work;

[33] ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy.

[34] ILO (2022) Fair recruitment and access to justice for migrant workers.

[35] ILO (2012) Indicators of forced labour.

[36] ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy.

multi-party employment (including temporary agency work); and disguised employment/dependent self-employment with unclear employment relationships. Well-regulated NSFE can provide flexibility to address dynamic labour market needs, however workers in such types of employment may be exposed to decent work deficits including job insecurity, unpredictable or excessive hours of work, lower pay, gaps in social protection, including sick leave, and obstacles in law and practice to form and join unions.[37] With regards to **digital labour platforms**, ILO research has found that the number of platforms in the domestic work sector has risen eightfold in the years 2010 to 2020 – with domestic workers in arrangements where they are directly hired by platforms, or where their work is mediated through the platforms. In general, domestic workers engaged in digital labour platforms tend to lack labour and social protection.[38]

Regarding other forms of NSFE, the ILO also notes a trend in some countries to replace permanent public health service employment with fixed-term contracts, and to use outsourcing for certain types of work.[39] The OECD reports that **part-time employment** is on average twice higher in long-term care than the average rate in the economy, and that temporary contracts represent 20 per cent of employment in long-term care (representing a share that is 25 per cent higher than the average rate).[40] ILO analysis of labour force survey data in 29 countries in Europe and 27 from other regions revealed that personal care workers were much more likely than physicians, nurses and midwives to have a temporary contract.[41]

Regarding temporary agency work specifically, **principles of fair recruitment apply to recruitment and placement through temporary work agencies as well**, as the ILO defines private employment agencies as including those "…providing services consisting of employing workers with a view to making them available to a third party (temporary employment agencies)…". The ILO CEARC in its 2022 General Survey report raised concerns related to care workers in agency work (where the worker is directly employed by the PEA), noting "workers in such triangular relationships may not be aware of who their employer is in the event of a dispute. These issues are compounded where the agency is international, which may raise jurisdictional problems"[42]. These challenges can be also related to the absence of standard contracts of employment.[43] In relation, the GPOG states that temporary employment agencies and user enterprises should agree on the allocation of responsibilities of the agency and of the user enterprise, and ensure that they are clearly allocated with a view to guaranteeing adequate protection to the workers concerned."[44]

▶ Text box 7: Non-standard forms of employment

Common non-standard forms of employment include digital labour platforms, working from home, temporary employment (fixed term and casual work), part-time and on-call work (including "zero hours" work), multi-party employment (including Temporary Agency Work), and disguised employment/dependent self-employment (including "gig" and "on demand" work).

Learn more: The rising tide of non-standard employment

Migration pathways into care work

Migrant workers take different migration and employment pathways into care work. Often entry pathways are linked to skills (either skill level based on the requirements for the job, or the educational level of the migrant worker) – with often preferential treatment and greater access to rights including residency for more higher-skilled care workers.[45] Two key areas of exploration in this matter are the role and complexities of temporary labour

[37] ILO (2016) Non-standard employment around the world: Understanding challenges, shaping prospects.

[38] ILO (2021) Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189).

[39] ILO (2018) Care work and care jobs.

[40] OECD (2020) Who Cares? Attracting and Retaining Care Workers for the Elderly.

[41] ILO (2023) What labour force survey data can tell us about the workforce in the health and social care sector.

[42] ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy.

[43] ASEAN (2023) Research on Migrant Workers' Rights-Based Standard Employment Contract for Domestic Work in ASEAN.

[44] ILO General Principles and Operational Guidelines for Fair Recruitment, Operational Guideline 25.

[45] See also: ILO (2016) General Survey concerning the migrant workers instruments.

migration schemes; and the role of bilateral labor agreements (BLAs) and Memoranda of Understanding (MOU) in governing care worker migration.

Temporary labour migration has long been a feature of the care sector. Many states rely on temporary labour migration schemes to fill structural labour market needs, a temporary solution to a more persistent problem, which creates challenges for care employers and workers. In fact, often migrant care workers repeat migration cycles on temporary visas for a longer term. Temporary labour migration schemes tend to restrict migrants' rights and opportunities (including rights to permanent settlement) and can create instances where migrant care workers are pushed into irregular migration or employment status. For example, employer-tied visa programs which restrict migrant care workers to one employer. In some States, there is a structural dependency on migrant domestic workers in tied employment relationships to perform (unrecognized) critical care work.[46]

The Global Union Federations Public Services International (PSI) and the International Trade Union Confederation (ITUC) have been highly critical of temporary migration programmes in the care sector, suggesting that they can exacerbate precarious and exploitative work and diminish workers' rights to training, career development, decent work, social protection and family reunification.[47] ILO research[48] has also noted that the move towards temporary migration programmes has been accompanied by a de-emphasis on migration leading to permanent settlement.

In some contexts, temporary labour migration schemes in the care sector include elements linked to skills development and increasing the capacity of the health sector in the country of origin. For example, they may include "areas of cooperation" such as bilateral exchanges, education placements and scholarships, capacity building of medical institutions in the country of origin, and support for return migration. These measures are also referred to in the WHO Code of Practice, which calls for agreements to take into account the needs of developing countries. For example, see ILO's documentation of the BLA between Kenya and the United Kingdom for recruitment of health workers.[49]

The shift in policy discourse towards temporary labour migration in the sector is presently associated with the growing use of bilateral labour migration agreements (BLAs).[50] **Bilateral labour agreements** are a labour migration governance tool to ensure regular migration pathways, improve governance and oversight, and better protect workers' rights. To be effective, they must be solidly underpinned by international human rights and labour standards, be based on skills anticipation mechanisms to support labour market functionality, and be effectively implemented. BLAs should also purposely address gender specific challenges and needs.[51] Yet, experiences with BLAs have often fallen short of these expectations.[52] See text box 8, for an example of a comprehensive BLA on health workers.

See the: The UN Network on Migration's Guidance on bilateral labour migration agreements, which includes a section on health workers.[53]

[46] ILO (2022) Synthesis report: Temporary labour migration: Unpacking complexities.
[47] ILO (2021) Temporary labour migration: Two studies on workers' perspectives and actions.
[48] ILO (2021) Temporary labour migration: Two studies on workers' perspectives and actions.
[49] ILO (2022) Recruitment of health workers through bilateral labour agreements (BLAs): Kenya and the United Kingdom.
[50] ILO (2021) Temporary labour migration: Two studies on workers' perspectives and actions.
[51] See for example: ILO (2016) Gender sensitivity in labour migration-related agreements and MOUs.
[52] ILO (2019) Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region.
[53] UN Network on Migration (2022) Guidance on bilateral labour migration agreements.

▶ Text box 8: Government to Government bilateral labour migration agreements on health workers

Germany and the Philippines[54] entered into a BLA for government-to-government recruitment of health workers in 2013. The parties to the Agreement include the Philippine Overseas Employment Administration (POEA), the German Federal Employment Agency (BA), International Placement Services (ZAV) and the (German) Agency for International Cooperation (GIZ). The agreement is notable for inclusion of several good practices, including comprehensive pre-departure training programme and establishment of a Joint Committee to monitor implementation. The Joint Committee includes representatives from trade unions of both country parties (Ver.di from Germany and PSLINK from the Philippines).[55] Germany has also recently signed bilateral agreements with Honduras, Guatemala and Mexico for the recruitment of care workers (nurses). The agreements outline the partnerships between the respective PES, the pre-departure requirements and conditions, and the recruitment and working conditions.

Recognition of skills in the recruitment process

Developing recognition frameworks, designing and implementing sound labour market information systems, including accurate labour market needs assessment and skills anticipation are critical elements for fair recruitment. This is recognized in the ILO GPOG & Definition, which state that recruitment should respond to established labour market needs and indicate that recruitment should take into account policies and practices that promote efficiency, transparency and protection for workers in the process, such as mutual recognition of skills and qualifications.

Migrant care workers comprise a broad range of skills, however **many workers face challenges in having their skills, qualifications and experience recognized as well in accessing opportunities for skill development at destination**. Recognition processes may be complex, costly and long, and migrant workers in the care economy are vulnerable to a process of deskilling. For example, in a situation where migrant nurses are not able to have their skills or qualifications recognized in the destination country, they may accept jobs in the sector that do not typically require formal qualifications, such as qualified nurses taking on roles as "nursing assistants".[56] Furthermore, in some countries, meeting high national language proficiency requirements is a barrier to practicing the profession.

At the skills anticipation stage, lower-skilled care workers may also face additional barriers and disadvantage, as skills anticipation mechanisms tend to overlook low- and medium-skilled sectors. This poses additional costs for employers, and also has the potential to lead to increased precarity for lower skilled workers, with the unrecognized demand often being filled with short term national contract workers and agency workers, as well as irregular migrant workers.[57]

Crucially, **the costs of skills, training and certification** when initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process, should be considered related to the recruitment process, and hence not be borne by the worker themselves. [58] As such, it is important to ensure that skills and certification costs are transparently communicated to all parties and not artificially inflated to disguise recruitment fees or costs.

As explored above, migration of skilled care workers can be a significant loss for countries of origin healthcare systems if not well planned for or mitigated. Various measures may be taken to address these concerns, alongside specific skills programs. For example, **skills partnerships** (also referred to as mobility partnerships or talent partnerships)[59] where employers in countries of destination may fund training in the country of origin, for example Germany's 'triple win' model.[60] Further research is needed to explore their efficacy.

[54] The Philippines have signed several BLAS/MOUs on recruitment of healthcare professionals with governments including the United Kingdom, Singapore and Indonesia. However, the BLA with Germany is often quoted as a particularly good practice due to the described involvement of social partners.

[55] Presentation by Herbert Beck, Ver.di. Available here.

[56] ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy.

[57] Awad, Panzica, and Popova, 2023. In Forecasting and meeting future demand for migrant labour settings, KNOMAD Paper 48.

[58] ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs.

[59] For example, the European Commission EU Talent Pool which works to match employers in the EU with jobseekers in third countries, as well as measures to promote the recognition of qualifications and learners' mobility. European Union, 15 November 2023, "Commission proposes new measures on skills and talent to help address critical labour shortages".

[60] Bertelsmann Stiftung (2020) Fostering transnational skills partnerships in Germany.

▶ Text box 9: The Global Skills Partnership on Migration

The Global Skills Partnership on Migration (GSPM) is an initiative between ILO, IOM, UNESCO, IOE and ITUC to join forces and mobilise expertise for the development and recognition of skills of migrant workers. It supports governments, employers and workers as well as their organisations, educational institutions and training providers, and other stakeholders to rethink migration in a way that is of mutual benefit to all stakeholders; principally migrant workers, including those who return (with a particular focus on women and youth), employers in need of skilled workforce, as well as the countries of origin and destination.[61]

The role of workers' organizations and employers' organizations in addressing recruitment challenges for migrant care workers

Representation and social dialogue remain a challenge for care workers, given the heterogenous nature of the sector and the often high levels of NSFE. These challenges are furthered in particular for migrant care workers who face additional obstacles to realizing their rights to freedom of association and collective bargaining.[62]

▶ Text box 10: 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)

The ILO's 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), are among the ten Conventions identified by the ILO Governing Body, as Conventions dealing with the fundamental principles and rights at work. Conventions Nos 87 and 98 address the freedom of association and collective bargaining rights of all workers, including migrant workers, irrespective of their migration status, meaning that anyone working in a country, whether they have a residence or work permit or not, should benefit from the rights provided in these Conventions, without any distinction based on nationality.

For more information see: ILO (2023) Migrant workers' rights to freedom of association and collective bargaining

Globally, migrant workers face **challenges in establishing and joining trade unions and taking up trade union office**. They may face legal barriers – such as restrictions based on their nationality, residence or work permits, in sectors where they work (such as domestic work, agriculture, or export processing zones), or due to the fact that they are in informal working arrangements. Even where the right to join and form unions exists for migrant workers, they may face practical barriers, such as lack of knowledge about their rights, anti-immigrant sentiment among unions, language barriers, isolated workplaces and long hours, among others. Migrant care workers, in particular domestic workers, face these barriers acutely.[63]

Despite these challenges, trade unions can and do play an active role in promoting fair recruitment and protecting migrant workers' rights through key areas of action including organizing, policy advocacy, service provision and outreach to migrant workers. In some contexts, trade unions are also able to take an active role in monitoring labour migration and recruitment practices – for example through participation in the ITUC Recruitment Advisor, or as participating as members of Implementation Committees on BLAs.[64]

In relation specifically to migrant care work, a number of trade union bodies and civil society organizations are active in organizing care workers and advocating for their rights. For example, the International Domestic Workers Federation (IDWF) has been successful in organizing of Indonesian and Philippine domestic workers in Malaysia (PERTIMIG and AMMPO), within a very restrictive context. The law in Malaysia restricts migrant workers from joining any kind of association, and the Trade Union Act 1959 specifies that any union official must be a Malaysian citizen. This has prevented the official registration of PERTIMIG and AMMPO, however the despite these barriers, the unions have been active in organizing domestic workers and undertaking rights awareness raising activities.[65]

[61] ILO (2021) Global Skills Partnership on Migration Flyer.

[62] ILO (2023) Migrant workers' rights to freedom of association and collective bargaining.

[63] ILO (2023) Migrant workers' rights to freedom of association and collective bargaining.

[64] ILO (2020) Trade union action to promote fair recruitment for migrant workers.

[65] UN Network on Migration Repository of Practices: Formation of Migrant Domestic Workers Associations in Malaysia - Persatuan Pekerja Rumah Tangga Indonesia Migran (PERTIMIG) and Asosasyon ng mga Makabayang Manggagawang Pilipino Overseas (AMMPO)

With regards to recruitment specifically, the global union federation Public Services International (PSI)'s "Roadmap on bilateral labour agreements on health worker migration and mobility" centres fair and ethical recruitment as a key pillar, referring to the ILO's GPOG, as well as the WHO Global Code of Practice. The Roadmap calls for BLAs to include measures to set up union-to-union partnerships in countries that are party to the agreement, and to include support and safeguarding measures for the benefit of health system in the country of origin and to mitigate the impacts of outward migration. See text box 8 for an example of the role of trade unions in recruitment of health workers from the Philippines to Germany.

Employers' organizations can play a role in addressing issues in the care work sector, including those related to recruitment and retention, skills recognition and social protection coverage. For example, in Italy, where migrant workers comprise 70 per cent of the domestic work sector, the training centre EBINCOLF[66] works to promote the training of domestic workers, certifies their skills, supervises the uniformity of the application of the national collective labour agreement, and provides information on workers' safety.

[66] Ente Bilaterale Nazionale del Comparto Datori di Lavoro Collaboratori Familiari (EBINCOLF), the National Bilateral Body of the Employers' and Family Collaborators Sector.

▶ Policy priorities

Ensuring fair recruitment is essential for guaranteeing decent work for migrant care workers – for the benefit of care systems, employers, workers and care beneficiaries. In light of growing care needs and the increasing role of migrant workers within international care systems, action is needed to improve labour migration governance structures and protection mechanisms.

Key actions to ensure fair recruitment for migrant care workers include:

- Ratify and effectively implement the relevant ILO migrant workers instruments.
- Foster coherence between national care, employment, social protection, labour protection, migration and environmental policies, ensuring that they are gender-responsive.
- Undertake labour market information system (LMIS) assessments to determine current and future care needs and determine if and how migration can play a role in effective functioning of health and care systems.
- Ensure that there are adequate regular labour migration pathways that respond to labour market needs.
- Develop bilateral labour migration agreements for care workers, in line with the UN Network Guidance, and based on international labour standards and best practices.
- Ensure that recruitment of health and care workers respects the WHO Global Code of Practice principles to protect fragile health care systems, including that international recruitment only takes place to fulfil gaps in the national labour market, and does not take place in countries where there is a shortage of health workers.
- Ensure effective regulation, monitoring and enforcement of private employment agencies – including intermediaries involved in the recruitment process.
- Ensure effective implementation of the principle that workers should not be charged any fees or costs for their recruitment.
- Ensure effective regulation of the recruitment and employment of migrant care workers in non-standard forms of employment, including placement by temporary employment agencies and platform care workers.
- Recognize that migrant domestic workers are care workers and include them in care policies, and guarantee their labour rights and social protection in line with other workers.
- Ensure migrant care workers have the right to freedom of association and collective bargaining, and that their organizations are able to advocate for their right to fair recruitment.
- Ensure that social protection schemes, maternity protection and care services are extended to migrant workers in the care economy and allow for portability.
- Ensure that migrant care workers who have experienced abuses have effective access to justice and fair, affordable and gender responsive complaints mechanisms. This includes the insurance that the right extends beyond borders and migrant care workers can pursue claims once they have left the country of employment.

▶ Annex

Relevant international labour standards and guidance

Fundamental Principles and Rights at Work (FPRW) apply to all workers in all sectors. Specific standards and guidelines relevant to migrant care workers include:

- The Violence and Harassment Convention, 2019 (No. 190)
- The Forced Labour Convention, 1930 (No. 29), and the Protocol of 2014 to the Forced Labour Convention, 1930
- The Domestic Workers Convention, 2011 (No. 189)
- The Private Employment Agencies Convention, 1997 (No. 181)
- The Maintenance of Social Security Rights Convention, 1982 (No. 157)
- The Occupational Safety and Health Convention, 1981 (No. 155)
- The Promotional Framework for Occupational Safety and Health, 2006 (No. 187)
- The Nursing Personnel Convention, 1977 (No. 149)
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- The Social Security (Minimum Standards) Convention, 1952 (No. 102)
- The Equal Remuneration Convention, 1951 (No. 100)
- The Migration for Employment Convention (Revised), 1949 (No. 97)
- The General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs

Key resources

ILO (2024) From global care crisis to quality care at home: The case for including domestic workers in care policies and ensuring their rights at work

ILO (2023) International labour migration in the health sector - A manual for participatory assessment of policy coherence

ILO (2023) What labour force survey data can tell us about the workforce in the health and social care sector

ILO (2023) Framework for Sri Lanka's health workers' mobility adopting fair and ethical recruitment practices

ILO (2022) Securing decent work for nursing personnel and domestic workers, key actors in the care economy

ILO (2022) Caring for those who care – Guide for the development and implementation of occupational health and safety programmes for health workers

ILO (2022) Care at work: Investing in care leave and services for a more gender equal world of work

ILO (2022) Theory of Change towards a transformative agenda for gender equality in the world of work

ILO (2021) Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189)

ILO (2020) COVID-19 and the health sector

ILO (2020) Beyond contagion or starvation: giving domestic workers another way forward

ILO (2020) COVID-19 and care workers providing home or institution-based care

ILO (2019) The Social Construction of Migrant Care Work: At the intersection of care, migration and gender

ILO (2019) Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region

ILO (2018) Care work and care jobs

ILO (2018) Decent Working Time for Nursing Personnel: Critical for Worker Well-being and Quality Care

ILO (2016) Case studies in the international recruitment of nurses: Promising practices in recruitment among agencies in the United Kingdom, India, and the Philippines

ITUC (2023) Trade unions in action for the rights of migrant workers

OECD (2020) Who Cares? Attracting and Retaining Care Workers for the Elderly

PSI (2023) Social Dialogue is Key: PSI Roadmap on Bilateral Agreements on Health Worker Migration and Mobility

PSI (2021) Factsheet #1: Migrant Health & Social Care Workers during the pandemic - What we know about their situation

WHO (2023) WHO health workforce support and safeguards list, 2023

WHO (2020) WHO Global Code of Practice on the International Recruitment of Health Personnel: Report of the WHO Expert Advisory Group on the Relevance and Effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel

WHO (2020) State of the World's Nursing

WHO (2010) Innovations in Cooperation: A guidebook on bilateral agreements to address health worker migration

WHO (2017) A dynamic understanding of health worker migration

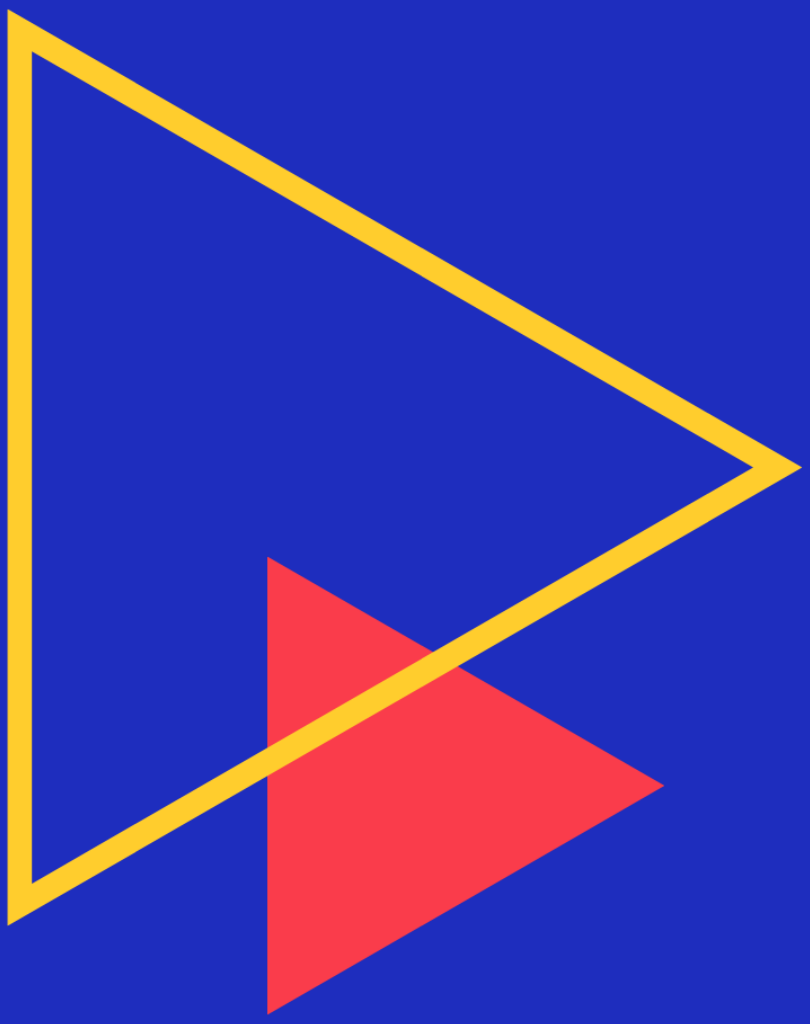
About the Fair Recruitment Initiative

The Fair Recruitment Initiative (FRI) was launched in 2014 as part of the ILO Director General's call for a Fair Migration Agenda – with a Phase II launched for 2021-25. The Fair Recruitment Initiative's vision is to ensure that recruitment practices nationally and across borders are grounded in labour standards, are developed through social dialogue, and ensure gender equality. Specifically, they:

- are transparent and effectively regulated, monitored, and enforced;
- protect all workers' rights, including fundamental principles and rights at work (FPRW), and prevent human trafficking and forced labour;
- efficiently inform and respond to employment policies and labour market needs, including for recovery and resilience.

The Initiative's strategy is grounded in four pillars:

- Enhancing, exchanging and disseminating global knowledge on national and international recruitment processes
- Improving laws, policies and enforcement to promote fair recruitment
- Promoting fair business practices
- Empowering and protecting workers



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