Journal of Law, Society & Authority ISNN 2253-0266

Volume (15), Issue (2), September 2026; pp. 127 - 148 e-ISSN 2600-6219

Recruitment Practices and Migration Policies: Structural Drivers of Migrant Workers Exploitation

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Submission date: 28-06-2026 Acceptance date: 31-08-2026 Publication date: 20-09-2026

Abstract:

Migrant workers continue to experience exploitation despite the existence of legal protections under both domestic and international law. This article argues that the continued vulnerability of migrant workers is not primarily attributable to the absence of legal rights, but rather to two structural issues: recruitment practices and migration policies. Through an analysis of international legal standards and selected national approaches, the article examines how unfair recruitment practices and restrictive employer-tied migration policies create dependency on employers and undermine workers' ability to exercise their rights. It concludes that strengthening the protection of migrant workers requires not only legal guarantees but also reforms to recruitment governance and migration policies that address the structural conditions enabling exploitation.

Keywords: *Migrant Workers; Migration Policies; Unfair Recruitment; International Labor Law; Migrant Workers Rights.*

Introduction:

Migrant workers are more vulnerable than national workers, and thus they are more likely to face risks, challenges and injustice throughout the various stages of the migration cycle such as discrimination, xenophobia, exploitation and other harsh conditions. The conditions and the challenges migrant workers face have been acknowledged and thus an international framework governing migrant workers has been adopted, the most important instruments of this framework are the International Labor Organization conventions; the Migration for Employment Convention in 1949, The Migrant Workers (Supplementary Provisions) Convention in 1975 and the United Nations

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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Taken together, these instruments provide for a comprehensive framework for protecting migrant workers, focusing on matters such as equality with nationals, access to legal remedies, social rights, family reunification, freedom of association and assembly, and wage protection, among other matters. However, these instruments suffer from low ratification rates, as with the 1949 Convention, the 1975 Convention, and the 1990 UN Convention having only 54, 30, and 60 ratifications up to this date, respectively.

States often argue that their domestic labor laws and national laws in place are sufficient enough to ensure the protection of labor migrants and that ratification of these international conventions is therefore unnecessary. That assumption can be true in a number of countries, such as policies in place for the protection against wage withholding, protection against document confiscation, discrimination generally, including discrimination between workers in the workplace. Additionally, we add here that such rights are also enriched in the International Human Rights bills, such as the Universal Declaration on Human Rights.

Against this background, this article argues that the continued vulnerability of migrant workers is not primarily attributable to the absence of legal protections. Rather, it stems from two structural issues that national legal systems have failed to address adequately and which, in some cases, remain inconsistent with the international legal framework: recruitment practices and migration policies. Accordingly, this paper seeks to examine the two most prominent issues, shed light on their practical implications, to identify their role in creating an exploitation environment for migrant workers and assess the extent to which national legal systems respond to and address these challenges.

The Recruitment of Migrant Workers

Prior to the 1990s, states managed labor migration and migrant labors entry into their market through public employment agencies, whereas governments of sending and destination states were in charge of the labor migration recruitment and the conditions. However, from the 1990s onwards, many governments have lifted the ban on private employment agencies and the restriction of their operation for overseas

employment[1]. While, some countries, such as South Korea still rely on government-to-government recruitment of foreign labor, many countries have now opted to allow for private recruitment agencies to fill the labor market's needs. The rapid switch and the recognition of the role of private recruitment agencies in cross border recruitment can be seen in the International Labor Organization adoption of the Private Employment Agencies Convention in 1997 and its accompanying recommendation The Private Employment Agencies Recommendation. The convention represents a shift and recognition of the role of private recruitment agencies in meeting labor market needs. According to the convention, private employment agencies are defined as any natural or legal person, independent of the public authorities, which provides one or more of the following labor market services:

a) Services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;

b) Services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as "user enterprise") which assigns their tasks and supervises the execution of these tasks.

c) Other services relating to job seeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of application for employment.

The convention discusses the governance of such agencies and requires member states to determine the conditions governing the operation of the private agency, whether through licensing or certification in accordance with national law. Furthermore, the convention touches on an important topic relating to charging fees. Article (7) specifically stipulates that "*Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to*

[1]International Labor Organization (2018), Training Toolkit on Establishing Fair Recruitment Processes – Module 3: Public employment services and private employment agencies in a changing recruitment landscape. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@migrant/documents/instructionalmaterial/wcms_682744.pdf

workers". Exceptions may be put in place, however, with the conditions that the states members consult with the representative organizations of employers and workers, for specific categories of workers or services, taking into consideration the interests of the workers concerned. In the case of providing such exceptions, the member state shall report that to the ILO and explain the reasons for granting such an exception.

In terms of significance, this convention represents an important instrument in the international law when it comes to private employment agencies, protecting the rights of migrant workers in the scope of recruitment and setting standards for the governance of private recruitment agencies as it recognized as the only instrument of its nature to touch on this topic specifically. However, similarly to other conventions which touch on topics related to migrant workers, it has a low ratification rate and is ratified by 40 countries only. The ILO Forced Labor protocol also provides for and emphasizes the importance of combatting fraudulent recruitment of workers, as it can reach the characteristics of forced labor. The recruitment process for migrant workers involves a list of abuses and risks which can be summarized to the main following abuses: charging of recruitment fees in excessive amounts, and deception about the nature and conditions of work, among others[1].

As the convention sets out, private recruitment agencies may play a role out of two roles, one is acting as intermediaries between job seekers (migrants) and employers, and the other role is the recruitment of workers to be working under their name, by outsourcing and/or assigning them to third parties to perform work, the latter is known as temporary work agencies or staffing agencies. In the latter, the recruitment agency is in control of the migrant's wages, benefits and all other labor entitlements and working conditions.

The recruitment industry proves to be complex, with it being spread out through two different jurisdictions with multi-stakeholders playing different parts. As Fay describes it, illustrating it through the

[1] Andrees, B., Nasri, A. and Swiniarski, P. (2015). Regulating Labor Recruitment to Prevent Human Trafficking and Foster Fair Migration: Models, Challenges and Opportunities, International Labor Organization, Geneva p. 10

example of recruitment in Canada[1], the supply chain can be as short as involving two stakeholders, the employer and worker, where the employer hires the worker directly. This in practice can be seen in very highly skilled positions, where big firms usually have their own recruitment departments with employees in positions of headhunting, trying to find the best fit for an occupancy at the firm. The other side of this supply chain, which is the more frequent, is when an employer contacts a local based recruitment agency to obtain a number of foreign labors, who then contacts overseas recruitment agencies, and on the other end, the overseas recruitment agencies may have sources for identifying and recruiting workers, such as agents, subcontractors, or affiliates. Thus, it can be observed that the matter of recruitment is spread across different actors, who all play a role in making the experience positive or negative.

On a governance level and to practice a some-what control over such agencies to ensure ethical recruitment, states have opted for various ways of imposing specific criteria for the establishment of a recruitment agency. The first is the requirement of registration, that is a requirement similar to any other commercial entity seeking to carry out activities in the country, which includes registration of the company with the Ministry of Industry and Trade or its equivalent depending on the jurisdiction. The second approach is that in addition to the registration requirement, national law obliges the recruitment agency to obtain a special license before carrying out its activities, this would entail depending on the jurisdiction, the obligation of submission of a financial bond, proof of financial and marketing capability[2]. Depending on the jurisdiction of the country, The licensing requirements may be either restrictive or non-restrictive, for example in the Canadian province Manitoba, the requirements for agencies recruiting foreign workers include that recruiters be holders of a professional license such as lawyer, paralegal or migration consultant, and undergo investigations of their character and history.[3] On the other hand, some countries have abolished the criteria for a license, either in part or in full, an example of this is the Netherlands,

[1] Faraday, F. (2014). *Profiting from the Precarious: How Recruitment Practices Exploit Migrant Workers*, George Cedric Metcalf Charitable Foundation.
[2] Andrees, B., Nasri, A. and Swiniarski, P. (2015). *Regulating Labour Recruitment to Prevent Human Trafficking and Foster Fair Migration: Models, Challenges and Opportunities* p. 9
[3] Ibid p. 47

which only until recently had abolished the requirement of obtaining a license.

However, the introduction of new reforms mandating the requirements of a license for recruitment agencies in the Netherlands taking effect from January 2027 suggests that the previous absence of such a requirement was regarded as insufficient to prevent abuses in the recruitment sector. Announcing the reform, the former Dutch Minister of Social Affairs and Employment stated: "*With this law, we are taking a major step in combating abuses involving migrant workers*."[1]. In the United Kingdom, partial licensing requirements are in place based on the type of sector, for example recruitment agencies recruiting workers in agriculture, horticulture and food processing and packaging sectors require a license[2].

The registration of recruitment agencies and the provision of obtaining a license against a number of requirements, including a security bond proves to be an important step in governing the recruitment process of migrant workers, as such, the recruitment agency shall be traceable, and may face consequences in case of human rights violations which lead to suspension of its license. However, although this governance over the registration process proves to be a positive step that states take, there are still many risks associated with the recruitment process due to its complex nature, as recruitment agencies, at least some of them, resort to networks of informal subcontractors, agents or affiliates, who may be individuals that play a role in referring migrant workers to the agency. To tackle this, some governments have considered an approach to regulate this matter, a prime example is Sri Lanka, where a private recruitment agency can apply for the licenses of up to ten affiliated subagents[3].

Although such an approach may be considered a practice example for other countries to consider, it may still not tackle the issue fully due

[1] Official website of the National Government of the Netherlands https://www.rijksoverheid.nl/actueel/nieuws/2025/04/24/vanaf-2027-strengere-regels-uitzendbureaus

[2] Official website of the National Government of the United Kingdom https://www.gov.uk/employment-agencies-and-businesses/licences-for-employment-agencies

[3] International Labor Organization (2018), Training Toolkit on Establishing Fair Recruitment Processes – Module 3. p. 20

to non-compliance by agencies, and the difficulty of containing such agents or affiliates and enforcing the provisions on them. Thus, the complex web of agents and subcontractors remains a major issue in itself when it comes to combating migrant workers exploitation. For example, according to a study published by European Union Agency for Fundamental Rights[1] tells the story of two Filipino workers in the Netherlands, where they signed a contract in English with the Filipino recruitment agency and upon arrival in the EU signed a contract in Slovak with the Slovak company. However, the reality of the situation is that the Slovak company only exists in paper, so that they work in the Netherlands against a Slovak minimum wage.

Among the most important matters when it comes to recruitment, and as the ILO convention has laid out is the charging of fees to the jobseekers. This may be the most important matter in ensuring effective ethical recruitment as it creates conditions for migrants' exploitation and the risks we identified previously. As Gordon explains "*The price a migrant is willing to pay depends on what she believes her earnings and benefits will be. Knowing this, recruiters may make inflated (if not outright false) promises about the work they offer*"[2].

Although the ILO convention prohibits charging fees to workers explicitly, it is not always the case in practice. A comparative study has concluded the following; recruitment fees and costs in most countries of origin and destination tend to be either prohibited, limited to a percentage of the worker's monthly wage, and/or capped at a maximum amount[3]. Thus, we find that the fees prohibition is not the most common approach, and many countries tend to permit certain recruitment fees, in some cases, beyond the limited exception provided for in the ILO convention discussed previously. The approaches differ between regions, in Europe, Central Asia and Arab states, the approach is adopting prohibition of fees regulations, in Asia and the pacific the approach is towards regulating the costs by implementing limitation caps and in Africa is it a mixture of

[1] European Union Agency for Fundamental Rights (FRA) (2019), *Protecting Migrant Workers from Exploitation in the EU: Workers' Perspectives*, FRA Report (Luxembourg: Publications Office of the European Union), ISBN 978-92-9474-597-2

[2] Gordon, J. (2015). *Global Labour Recruitment in a Supply Chain Context*, International Labour Office (ILO) Fair Recruitment Initiative Working Paper, Geneva. p. 10

[3] International Labour Organization (2022), *Fair Recruitment and Access to Justice for Migrant Workers: Discussion Paper*, ILO Fair Recruitment Initiative, Geneva. p. 10

both approaches[1]. The divergence between states approaches and the ILO convention suggests that the convention has limited influence on national regulations. This may, in part, be explained by the convention's relatively low level of ratification, as it is only ratified by 40 countries to date[2].

Nonetheless, it is not the practice of regulated fees that cause the issue, it is the practice of illegally imposing high and excessive fees on migrant workers that is the root of the problem. When migrant workers accept paying these fees, they usually take out loans or loan money from friends or relatives to cover those expenses, and shall in that case endure any exploitation, deviation from agreed upon job placement upon arrival and any other exploitive behaviors in order to be able to pay back the loans they have taken. A study[3] conducted on the recruitment fees paid to work in Taiwan by Vietnamese workers has shown that those workers have paid high recruitment fees of $5,000 to $6,600 to recruiters for their jobs and that they incurred debts to pay the fees. In Ontario, although there is a prohibition on charging of fees for live-in caregivers, the Caregivers' Action Centre it was reported that two-thirds of its members have been charged fees after the law was introduced and that generally recruitment fees can be between 4000 to 10000 Canadian dollars.[4] The European Union Agency for Fundamental Rights report showcases evidence of foreign workers, even EU nationals, being charged excessive amounts from recruitment agencies[5] .

Further evidence, for instance is from the Helsinki Police Department trafficking unit which stated that most migrant workers from developing countries paid recruitment fees going up to 25,000 euros to get into Finland[6]. In addition to the high recruitment fees, recruitment agencies deceive the workers about the nature of the job, the wages,

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[1] International Labour Organization (2024), *Recruitment fees and related costs at a glance,* ILO Fair Recruitment Initiative, Geneva.

[2] Information System on International Labour Standards, Ratifications of C181 - Private Employment Agencies Convention, 1997 (No. 181).

[3] Transparentem (2025). *The Price of Work: A Brief on Widespread Migrant Worker Recruitment Fees in Taiwan's Manufacturing Sectors*.

[4] Faraday, F. (2014). Profiting from the Precarious p. 32

[5] European Union Agency for Fundamental Rights (FRA) (2019), Protecting Migrant Workers from Exploitation in the EU: Workers' Perspectives

[6] Pekkarinen AG, Jokinen A (eds) (2023) *Patterns of Exploitation - Trends and Modus Operandi in Human Trafficking in Finland, Latvia, Estonia, Poland and Ukraine*. HEUNI Report Series no. 103a. p.22

living conditions (food and accommodation) and even their end employer.[1] In some cases, the recruitment process is entirely fraudulent, with no genuine employment opportunity existing at all. Reports have shown that, in one GCC state, a number of migrant workers were issued fake visas and arrested upon arrival, despite having paid recruitment fees[2].

Fraudulent recruitment agencies are not the only ones benefiting from this practice, end-employers also seem to benefit from these unethical recruitment practices, whereas it decreases the costs of foreign recruitment for them, as the costs are borne by the worker and not them. Although, even if recruitment regulations as discussed above may allow for fees to be charged by the agency, those fees should not include the permit and visa fees, as in accordance with most countries' regulations, those shall be borne by the employer in the destination country[3].

The continuous lack of combatting such unethical recruitment practice, and lack of cooperation between states, in addition to the complex web of parties involved in this industry leads continue to be among the major issues migrant workers face. As not only it is in itself an exploitation, but it paves the way for further exploitations that migrant workers will endure upon arrival in the destination state, as those workers have already paid substantial sums to enter into the state, the loans themselves alone may be the only reason to continue working under harsh conditions and less than minimum wages, in addition to other restrictions that they may face that stand in the way of obtaining their rights, such as the strict permit regimes that countries adopt which will be discussed next. It can also lead to an increase in irregular migration and overstaying residence permits as workers may have already made significant financial investments that they need to recover.

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[1] United Nations Office on Drugs and Crime (UNODC) (2015), *The Role of Recruitment Fees and Abusive and Fraudulent Practices of Recruitment Agencies in Trafficking in Persons*, UNODC, Vienna. https://www.unodc.org/documents/human-trafficking/2015/15-05035_ebook-_Recruitment_Fees.Agencies.pdf p.6

[2] Ibid p.12

[3] International Organization for Migration (IOM) (2014), *Lowering the Costs of Migration-Remittance transfer and Recruitment Costs*, Standing Committee on Programs and Finance IOM (S/15/4) https://www.iom.int/sites/g/files/tmzbdl486/files/2019-01/S-15-4_0.pdf p. 5

Work Permit Policies

The national policies and regulations governing the employment of migrant workers in destination countries play an important factor in the migrant worker's experience during their stay. As labor migration in essence is subject to supply and demand, the large majority of countries have implemented official migration policies that are designed to meet labor market demands, govern the country's control over who and for how long a labor migrant enters their country and to achieve a set of national objectives and goals. In general, labor migration policies may be divided into different categories, most notably, based on duration and skill level. Duration refers to temporary or permanent or seasonal labor migration, and on the other hand skill refers to the qualifications of the migrants, often linked to certificates and education level, whereas university graduates are considered high-skilled migrants, and others with less qualifications are referred to as low or medium skilled, often filling jobs in hospitality, agricultural, and such. Both categories are interconnected and impose more than just categorizing the types of labor migrants. Low and high skilled migration is associated with temporary migration, and in contrast, high-skilled migration is associated with permanent migration, or at least paving the way for permanent migration.

Most highly skilled labor migration programs are created to incentivize migrants to move to the state permanently; thus, rights accompanied with that type of policy are more than the rights offered to migrants that are low or medium skilled, which are intended for temporary migration only. For example, Canada's Federal Skilled Migrant Worker Program, Australia's Skilled Independent Visa Program, and New Zealand's Skilled Labor Immigration Program are all permanent immigration programs that admit skilled migrants without a job offer[1]. The Canadian Federal Skilled Migrant Worker Program grants permanent residency to those who meet the requirements, often referred to as "express-entry", such a program is a point-based program whereas applicants need to meet a minimum threshold of points to be accepted[2]. Such programs that provide permanent residency to the labor migrants

[1] Ruhs, M. (2013). *The Price of Rights: Regulating International Labor Migration*, Princeton University Press, Princeton, NJ. p. 60

[2] Official website of the Government of Canada https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/who-can-apply/federal-skilled-workers.html

often are associated with a better range of rights than those offered to low skilled or those in temporary programs, such as access to public funds, free choice of employment or choosing their employer, and family reunification. In his book[1], Ruhs dedicates a chapter to discuss how immigration programs which target high-skilled workers provide greater openness and rights. He draws the connection between the costs and benefits of rights, whereas granting more rights to high-skilled migrants are less costly and are more beneficial for the state. Another reasoning can be that states believe that the quality of high-skilled workers as individuals in their country is higher than those who are considered low-skilled. However, it must be noted that not all high-skilled migration is permanent such as the examples discussed above, as it can be temporary with the possibility of turning permanent and access to citizenship eventually, depending on the country.

Nonetheless, in this section, we are not meant to discuss the difference between permanent migration policies and temporary migration policies, high-skilled or low-skilled, as the preceding part is only an introduction to understand how migration policies can be constructed and affect rights. We shift our focus now to the actual work policy issues which affect migrants' workers' rights and may create the possibility of exploitation, which is restrictive migration policies found in temporary migration policies, that tie workers to a specific employer or restrict their right to change their employer.

Before moving forward to analyzing different countries' policies, we refer to the migrant workers' conventions and their take on this specific matter. The UN convention on the rights of migrant workers in article (52) discussed the matter of restrictions which can be imposed on migrant workers in the destination country, and limits it to the restriction of free choice of employment, such as limiting the categories of employment open to migrant workers and the restriction based on recognition of occupational qualifications, and stipulates that such limitations shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years. The ILO convention on Migrant Workers (Supplementary Provisions) in article (14) similarly to the UN convention prescribed that states shall allow the migrant to have free choice of employment, so long

[1] Ruhs, M. (2013). The Price of Rights

the migrant has resided lawfully for a period not exceeding two years. Thus, we find that the conventions neither permit nor discuss restrictions on choosing the employer; however, they do provide for a state's right to restrict employment to specific work occupations, sectors, or categories. This approach appears justified because we discussed before, labor shortages and market demands are the main incentives for countries to allow for labor migration, thus it only makes sense that countries may limit foreign labor to specific occupations where shortages exist.

However, it measures that tie workers to a specific employer which is a common policy method among countries when admitting foreign workers is what creates an environment for exploitation, as it creates dependency on the employer, and thus the scale balance is tipped off. It is argued that the reason behind employer-tied permits is the recognition of the investment and money paid by employers during the hiring of the worker[1]. An example of that can be taken from the United Kingdom experience in the case of domestic migrant workers, whereas in 2012 the right to change the employer was removed in the Overseas Domestic Workers' visa program, however it was reintroduced in 2016. Between 2012 to 2016, it was found that there was a significant increase of workers reporting physical and psychological abuse, food deprivation, lack of days off, passport confiscation and other exploitative incidents[2].

The importance of lifting the restriction of employee-tying and ability to change the employer can be seen in the European Union Single Work Permit Directive recast in 2024, the directive governs and stipulates a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State. Thus, not requiring the workers to go through two application procedures to obtain a work permit and a residence permit and instead receive a combined single permit for the purpose of work and stay in the EU member states. The previous directive of 2011, before amendments, had lacked provisions concerning the change of employer or grace periods when a loss of employment occurs. A matter which caught the attention of migrant workers activists who have called for a need to change in the

[1] PICUM (2021). *Designing Labour Migration Policies to Promote Decent Work*, Platform for International Cooperation on Undocumented Migrants (PICUM), Brussels. https://picum.org/wp-content/uploads/2021/07/Designing-labour-migration-policies-to-promote-decent-work-EN.pdf p. 14
[2] Ibid, p. 13

directive[1]. In the revised directive, specifically in article (11), it can be identified that the directive calls for allowing change of employer, paragraph (2) of the same article reads as follows "*Member States shall allow a single permit holder to change employer, Member States may subject the right of a single permit holder to change employer to any of the conditions set out in paragraph 3.".* Paragraph (3) sets out the measures that member states may impose; such as: *a) require that a change of employer be notified to the competent authorities in the Member State; b) require that a change of employer be subject to a check of the labour market and c) require a minimum period during which the single permit holder is required to work for the first employer*. The requirement to work with the first employer shall not in any case exceed six months. Furthermore, the amendments stipulate that unemployment in itself shall not constitute a reason for withdrawing a single permit, provided that the total period of unemployment does not exceed three months during the period of validity of a single permit, or six months if the third-country national has been a holder of the single permit for more than two years. The amendments reflect a positive change and acknowledgment of the need to protect migrant workers from exploitation resulting from being tied to their employer. Member states have until 21 May 2026 to transpose the revised directive into their national laws.

In a review of current practices in member states, we find that for example, in Malta, a grace period of only ten days is given to the worker who loses their job in order to find a new employment[2]. Numerous complains of exploitation have been reported where employers use this gap in the system for their benefits, for instance employers often inform the authorities that the worker is being dismissed – without telling the employee that he no longer has a job which has led to workers being

[1] PICUM (2023). *Break the Chain of Dependency and Promote Equal Treatment of Migrant Workers: Joint Statement on the Revision of the Single Permit Directive*, Platform for International Cooperation on Undocumented Migrants (PICUM), November 2023. https://picum.org/wp-content/uploads/2023/11/Joint-Statement_SPD.pdf

[2] Ramón Vera, L. D. (2025). *The Legal and Administrative Challenges for the Decent Work Right Protection: A Case Study on Lower-skilled TCN Workers in Malta*, LL.M. Thesis, University Pompeu Fabra. https://repositori.upf.edu/server/api/core/bitstreams/f052e219-0c84-4b64-9072-b4437bb0a1c0/content p. 17

forced out of Malta after unknowingly overstaying their visa[1]. Thus, migrant workers may endure and accept exploitive practices from their employers for the fear of being dismissed and not finding new employment within the ten-day period. In Croatia, recent amendments in 2025 are still restrictive when it comes to changing employers, which prohibits the change until they have completed one year of employment[2]. In other cases, such as Belgium, new residence permit application must be submitted if the worker would like to change their employer, during which the worker is not allowed to work until a decision has been made on the permit, putting them in a vulnerable financial situation, and in Czech Republic workers are allowed to change employers after six months.[3] Hungary is also similar to Belgium, whereas a change of the employer requires a new application be made, and a grace-period of 5 days is given to apply for a new application[4]. In some member states, applications may not be allowed to be made inside the member state, and the worker has to leave and apply from outside for the new permit, which creates an even larger barrier to changing employers[5].

Similarly in Australia, for example the Pacific Australia Labor Mobility policy, where workers are tied to the employer which sponsored them and are not allowed to change employers for a period of up to four years. The temporary skilled program, which provides a route for permanent residency also depends on the employer to nominate the worker for permanent residency and requires being employed by the

[1] *Abusive employers fire third-country nationals to get them deported* (2025), Times of Malta. https://timesofmalta.com/article/abusive-employers-fire-thirdcountry-nationals-get-deported.1108452

[2] Croatia - The Foreigners Act (NN 40/2025) https://narodne-novine.nn.hr/clanci/sluzbeni/2025_03_40_545.html

[3] Weatherburn, A. (2023). *The Lived Experiences of Migrants in the EU with a Single Permit*, Equality Law Clinic, Université libre de Bruxelles. https://equalitylawclinic.ulb.be/images/documents/The_Lived_Experiences_of_Migrants_in_the_EU_with_a_Single_Permit38.pdf

[4] Official website of the European Commission, EU Immigration Portal (Employed worker in Hungary) https://home-affairs.ec.europa.eu/policies/migration-and-asylum/eu-immigration-portal/employed-worker-hungary_en

[5] De Lange, T. and Falkenhain, M. (2024). *Precarity prevented or reinforced? Migrants' right to change employers in the recast of the EU Single Permit Directive*, Frontiers in Sociology, Vol. 8, Article 1267235. https://doi.org/10.3389/fsoc.2023.1267235 p. 5

same employer for a prescribed period of time[1]. A report titled "*Right or Wrong, Just Accept It"* has shown that 64 percent of participants interviewed would change their employer if labor mobility were allowed under the Pacific Australia Labor Mobility scheme[2]. In a report by the UN Special Rapporteur on contemporary forms of slavery, false promises of nomination for permanent residency were identified as a concern and highlighted the significant power imbalance between employers and workers due to being tied to a single employer[3].

In the United Kingdom, workers are also tied to their employer, who is their sponsor, and the worker only has 60 days grace period to find a new sponsor if the employer withdraws their sponsorship or lose their sponsoring license[4], which places the worker under the mercy of their employer, specifically, after they have paid their life savings to a recruiter to find this opportunity. Changing the employer also requires submission of a new application[5]. Similar concerns were raised to the Canadian Temporary Foreign Workers Programme, which was flagged by the UN Special Rapporteur[6] as a breeding ground for contemporary forms of slavery. The closed permit system in Canada has received wide criticism, to the point that a class-action lawsuit was initiated by

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[1] Immigration Advice and Rights Centre (IARC) (2024). *Preventing Migrant Worker Exploitation in Australia: Report for the UN Special Rapporteur on Contemporary Forms of Slavery*, IARC, November 2024. https://iarc.org.au/wp-content/uploads/2024/11/IARC-Report-for-the-UN-Special-Rapporteur-on-contemporary-forms-of-slavery-November-2024.pd

[2] Migrant Justice Institute (MJI) (2024). *'Right or Wrong, Just Accept It': How Employer-Tied Visas Foster Fear and Silence Among Pacific Workers on the PALM Scheme*, MJI. https://www.migrantjustice.org/2025palmreport

[3] Office of the United Nations High Commissioner for Human Rights (OHCHR) (2025). *Visit to Australia: Report of the Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences (A/HRC/60/28/Add.1)*. https://www.ohchr.org/en/documents/country-reports/ahrc6028add1-visit-australia-report-special-rapporteur-contemporary-forms

[4] Sehic, A. and Vicol, D. O. (2025). *Safeguarding Sponsored Workers: A UK Workplace Justice Visa, and Other Proposals from a Six-Country Comparison*, Work Rights Centre https://www.workrightscentre.org/media/uvrdwteg/report-published-24042025-safeguarding-sponsored-workers.pdf p. 6

[5] Ibid

[6] Office of the United Nations High Commissioner for Human Rights (OHCHR) (2024). *Visit to Canada: Report of the Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences (A/HRC/57/46/Add.1)*. https://www.ohchr.org/en/documents/country-reports/ahrc5746add1-visit-canada-report-special-rapporteur-contemporary-forms

Montreal-based workers' rights group against the federal government's closed work permits rule under the Temporary Foreign Worker (TFW) Program for it being unconstitutional as workers face immediate deportation due to employment relationship being terminated[1]. The lawsuit at the time of writing is still in progress and no final decision was issued.

Most notable and prominent example for restrictive migration policies has been the Kafala (sponsorship) system in the Gulf Cooperation Council (GCC) countries, as it had received a large amount of attention from human rights organizations and academia. In those countries, there are no permanent migration policies in place, nor is migration looked at as anything other than temporary migration. "*First of all, workers hosted by the UAE and other GCC countries cannot be considered migrant workers, as they work on a temporary basis and according to fixed-term employment contracts. Upon expiration of these contracts, they return to their home countries. Therefore, the immigration laws applicable in Western countries cannot be applied to these workers… the internationally accepted concept of migration does not apply to them*" this statement was made by Nasser Al-Shamsi the Permanent Representative of the United Arab Emirates to the United Nations, in a letter sent to Human Rights Watch on 29 September 2006[2] and it remains this way until today. The worker, similarly, to the above reviewed systems, is tied to the employer, however with additional elements that make the worker more dependent on the employer, such as the restriction allowing only the employer to renew the work permit for the worker[3], as the worker cannot apply nor renew the work permit independently. Another element in this system is requiring approval of the employer for changing employer in the form of a no-objection certificate and exit from the country approval[4]. There are numerous

[1] Official website of the Government of Canada, Open Government Portal (Employment and Social Development Canada) https://search.open.canada.ca/qpnotes/record/esdc-edsc%2CEWD_JUN2025_013

[2] Lori, N. (2012). *Temporary Workers or Permanent Migrants? The Kafala System and Contestations over Residency in the Arab Gulf States*, Ifri, ISBN 978-2-36567-087-6. p. 7

[3] International Labour Organization (2017). *Employer-migrant worker relationships in the Middle East: exploring scope for internal labour market mobility and fair migration*, ILO Regional Office for Arab States, White Paper, ISBN 978-92-2-130674-0.

[4] Ibid

examples of exploitation that workers in the GCC countries go through due to the restrictive nature of this system. There have been positive reforms in some of the GCC countries, however further reforms may be taken to further protect migrant workers. Among the reforms, is that workers in Saudi Arabia now have the ability to change employers without needing the employer's approval, and workers are now permitted to travel outside the country without requiring their employer's permission.[1] Similarly, Qatar has introduced reforms to the kafala system by abolishing the No Objection Certificate (NOC) from the employer in order to change jobs without restriction on time, meaning workers may change their employer at any time during their contract, including in the probation period[2]. In the United Arab Emirates, restrictions still apply when it comes to changing employers, whereas the migrant worker may change their employer without permission from current employer provided that they can show legitimate reason and provide a notice period as agreed in the contract[3]. These reforms represent significant progress in addressing some of the restrictive elements of employer-tied migration systems that contribute to the exploitation of migrant workers. However, the practical implementation and effectiveness of these reforms remain to be evaluated. Overall, the examples and analysis discussed above suggest that employer-tied work permit systems and restrictive policies constitute structural drivers of migrant worker exploitation by creating a dependency on employers and limiting workers' ability to escape abusive working conditions.

Conclusion:

In this paper, the author examined two prominent issues that hinder migrant workers' access to the rights and protections already provided for under international and national legal frameworks. The paper argues that the continued exploitation of migrant workers cannot be attributed solely to gaps in national laws, as in many jurisdictions, migrant workers are protected against practices such as wage withholding, passport

[1] International Labour Organization (2025). Report of the Director-General: Seventh Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Saudi Arabia of Convention No. 29 and its Protocol of 2014, and Conventions Nos 81, 95 and 111, Governing Body, 355th Session, GB.355/INS/16/7

[2] Human Rights Watch (2020), Qatar: Significant Labor and Kafala Reforms

[3] International Labor Organization (2024), Regulatory Framework Governing Migrant Workers in the United Arab Emirates

confiscation, discrimination, and other labor rights violations. Nevertheless, migrant workers continue to face these violations in practice due to what we identified as two structural factors that facilitate exploitation: recruitment practices and restrictive migration policies.

Our analysis shows that stronger governance of labor recruitment is required. Licensing requirements for recruitment agencies, together with financial guarantees and other regulatory safeguards, represent one approach to improving the governance of labor recruitment and reducing predatory recruitment practices. Furthermore, stricter rules and inspections on the fees collected by agencies from migrant workers shall be imposed. In terms of migration policies, we conclude that policies that create migrant workers' dependence on their employer result in an environment for exploitation and thus should be reduced or omitted. In addition to providing adequate grace periods following termination of employment and facilitating permit transfers without forcing workers into irregular status.

Accordingly, the paper concludes that the two issues discussed are in fact structural issues that affect migrant workers' access to rights and shall be paid more attention to and reformed. Addressing these structural challenges also requires cooperation between countries of origin and destination. Countries of origin have an important role to play in regulating recruitment agencies operating within their jurisdictions, providing migrant workers with pre-departure information, and cooperating with destination states in protecting their nationals abroad. Furthermore, advancing the role of bilateral labor agreements can complement domestic laws by strengthening oversight throughout the migration process and providing for protection mechanisms.

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