



Designing labour migration
policies to promote decent work
Policy recommendations

These policy recommendations and indicators framework stem from PICUM's policy brief "[Designing labor migration policies to promote work](#)" written by Lilana Keith and Michele LeVoy of PICUM-the Platform for International Cooperation on Undocumented Migrants, with the support of PICUM Trainee Abi Cardenas and PICUM members. PICUM warmly thanks all the PICUM members that contributed.

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Policy Recommendations: Essential characteristics of successful labour migration and work permit policies

1. Streamlined and efficient procedures:

- **Good administration:** Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements. Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language.
- **Based on an offer of employment:** An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors. If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.
- **Stability for workers and employers:** Permits should be of a reasonable duration, of at least two years. Permits should be renewable, without requiring workers to leave the country.
- **In-country applications:** People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented. Restrictions on people changing from one type of status or permit to another should be lifted.
- **Attracting key workers:** Systems which provide people a secure permit on the basis of individual criteria rather than an offer of work (so-called 'supply driven' models) should also be developed.

2. Autonomy for workers:

- **Worker-owned procedures:** Workers should be able to apply for permits themselves.
- **Labour market mobility:** Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, without permission from the employer or labour intermediary.
- **Independence from employers:** Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job. Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer.

- **Mitigating risks related to employer-provided housing:** Employer-provided housing should be subject to clear rules and monitoring to ensure that housing is decent and salaries not subject to inappropriate deductions.
- **Residence solutions in cases of exploitation:**¹ Transitional permits² should be made available for situations where workers experience labour violations or other abuses.

3. Equality and family unity:

- **Non-discrimination:** Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law.³ If there is preferential treatment, including for certain nationalities, this should be justifiable in relation to pre-existing disadvantage.
- **Family unity:** Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted. Spouses/partners should also be provided access to the labour market.
- **Equal treatment:** Migrant workers should be guaranteed equal labour and social rights.

4. Complementary labour market policies to enforce labour rights for all:

- **Labour standards:** Gaps in the application of some labour rights and standards - including related to pay, working time, health and safety and social protection – for certain groups of workers should be addressed. Proactive efforts to improve working conditions for all workers in sectors with high levels of informal work and exploitation are needed.
- **Justice for all:** Labour standards monitoring, complaints and redress mechanisms should be well resourced, independent and confidential. Measures should be developed to protect workers from employer retaliation and immigration enforcement as a result of exercising their rights and effectively provide access to justice for migrant workers.⁴

1 Regarding victims of criminal labour exploitation including trafficking in human beings, see PICUM (2020), [PICUM Key Messages and Recommendations on Human Trafficking, October 2020](#); PICUM (2020), [Insecure Justice? Residence permits for victims of crime in Europe](#), Brussels: PICUM.

2 See for example, the [Open work permit for vulnerable workers](#) in Canada and [Reactivation Employment Permit \(REP\) Scheme](#) in Ireland.

3 For more information, see Fundamental Rights Agency and Council of Europe (2018) [Handbook on European non-discrimination law, 2018 edition](#), European Agency for Fundamental Rights and Council of Europe.

4 For more information, see PICUM (2020) [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#), Brussels: PICUM.

- **Empowerment:** Targeted measures should ensure migrant workers have meaningful access to accurate information, NGOs and trade unions, and independent legal advice. Information should be provided in a language that migrant workers can understand, and include, at least, details of relevant regulations, rights and redress mechanisms, and NGOs and trade unions.
- **Regulating intermediaries:** Private employment and recruitment agencies should be regulated and monitored for compliance, including to ensure that recruitment fees and related costs are not paid directly or indirectly by workers.⁵
- **Corporate governance:** Due diligence and joint liability mechanisms should be strengthened to hold employers, general and sub-contractors, including labour intermediaries, accountable along supply and sub-contracting chains.

5. Social inclusion:

- **Pathways to settlement:** There should be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.
- **Social inclusion measures:** Complementary measures to support inclusion of workers and their families regardless of status are crucial. These include non-discriminatory policies on - alongside measures to facilitate - access to education, health care and housing, and pathways to regularise status on various grounds.

6. Structured dialogue with stakeholders, including migrant workers' representatives:

- **Involvement of migrant worker representatives:** For policies to be effective, it is crucial to have structured social and civil dialogue with key stakeholders in all stages of labour migration policy development, implementation and monitoring and evaluation. The views of representatives of migrant workers, including trade unions, NGOs and migrant worker associations, should have a clear and direct influence on policy, through social dialogue and extended civil dialogue spaces.
- **Local governance:** Recognising the deep connections between labour migration and local rural and urban development, cities and villages in countries of origin and destination should also be consulted, alongside national level stakeholders.
- **Transparency:** To enable democratic oversight and meaningful engagement of stakeholders, labour migration policies, including bilateral and regional agreements, should be transparent and public.

⁵ For more information, see ILO (2019), [General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs](#), Geneva: International Labour Organisation; see also resources from [IOM](#) and the WHO in this area.

Indicators framework for the essential characteristics of successful labour migration and work permit policies

1. Streamlined and efficient procedures	Indicators
<p>Good administration:</p> <ul style="list-style-type: none"> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements. Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language. 	<p>1.1 Number of steps in application procedure</p> <p>1.2 Accessibility of information about procedures and applicable rules</p>
<p>Based on an offer of employment:</p> <ul style="list-style-type: none"> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors. If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures. 	<p>1.3 Eligibility/ non-eligibility requirements to access a permit with a job offer</p>
<p>Stability for workers and employers:</p> <ul style="list-style-type: none"> Permits should be of a reasonable duration, of at least two years. Permits should be renewable, without requiring workers to leave the country. 	<p>1.4 Length of permit</p> <p>1.5 In-country renewals</p>
<p>In-country applications:</p> <ul style="list-style-type: none"> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented. Restrictions on people changing from one type of status or permit to another should be lifted. 	<p>1.6 In-country applications including when undocumented</p> <p>1.7 Status/ permit can be converted into another</p>
<p>Attracting key workers:</p> <ul style="list-style-type: none"> Systems which provide people a secure permit on the basis of individual criteria rather than an offer of work (so-called 'supply driven' models) should also be developed. 	<p>1.8 Requirements to access a permit to search for work or have facilitated access to the labour market and associated permits</p>

2. Autonomy for workers	Indicators
<p>Worker-owned procedures:</p> <ul style="list-style-type: none"> Workers should be able to apply for permits themselves. 	2.1 Ownership of application process/ worker or employer-made application
<p>Labour market mobility:</p> <ul style="list-style-type: none"> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary. 	2.2 Procedure to change employer 2.3 Procedure to change type of job 2.4 Procedure to change sector 2.5 Possibility to work for more than one employer 2.6 Time period before change of employer
<p>Independence from employers:</p> <ul style="list-style-type: none"> Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job. Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer. 	2.7 Time periods for unemployment/ job search during validity of permit and after the permit has expired 2.8 Available financial and practical support while unemployed
<p>Mitigating risks related to employer-provided housing:</p> <ul style="list-style-type: none"> Employer-provided housing should be subject to clear rules and monitoring to ensure that housing is decent and salaries not subject to inappropriate deductions. 	2.9 Rules on employer-provided housing 2.10 Monitoring mechanism for employer-provided housing
<p>Residence solutions in cases of exploitation:⁶</p> <ul style="list-style-type: none"> Transitional permits⁷ should be made available for situations where workers experience labour violations or other abuses. 	2.11 Availability of transitional permits

6 Regarding victims of criminal labour exploitation including trafficking in human beings, see PICUM (2020), [PICUM Key Messages and Recommendations on Human Trafficking, October 2020](#); PICUM (2020), Insecure Justice? [Residence permits for victims of crime in Europe](#), Brussels: PICUM.

7 See for example, the [Open work permit for vulnerable workers](#) in Canada and [Reactivation Employment Permit \(REP\) Scheme](#) in Ireland.

3. Equality and family unity	Indicators
<p>Non-discrimination:</p> <ul style="list-style-type: none"> • Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law.⁸ • If there is preferential treatment, including for certain nationalities, this should be justifiable in relation to pre-existing disadvantage. 	<p>3.1 Restrictions in access to permits on prohibited grounds</p> <p>3.2 Justification for preferential treatment, if applicable</p>
<p>Equal treatment:</p> <ul style="list-style-type: none"> • Migrant workers should be guaranteed equal labour and social rights. 	<p>3.3 Applicable labour rights</p> <p>3.4 Applicable access to social services and protection</p>
<p>Family unity:</p> <ul style="list-style-type: none"> • Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted. • Spouses/ partners should also be provided access to the labour market. 	<p>3.5 Possibilities to and restrictions on access to permits for family members</p> <p>3.6 Access to the labour market for family members</p>
4. Complementary labour market policies to enforce labour rights for all	Indicators
<p>Labour standards:</p> <ul style="list-style-type: none"> • Gaps in the application of some labour rights and standards - including related to pay, working time, health and safety and social protection – for certain groups of workers should be addressed. • Proactive efforts to improve working conditions for all workers in sectors with high levels of informal work and exploitation are needed. 	<p>4.1 Coverage/ gaps in coverage of labour law</p> <p>4.2 Measures to improve working conditions in key sectors</p>
<p>Justice for all:</p> <ul style="list-style-type: none"> • Labour standards monitoring, complaints and redress mechanisms should be well resourced, independent and confidential. Measures should be developed to protect workers from employer retaliation and immigration enforcement as a result of exercising their rights - and effectively provide access to justice for migrant workers.⁹ 	<p>4.3 Financial and human resources for mechanisms</p> <p>4.4 Measures to protect workers from employer retaliation and immigration enforcement following engagement</p> <p>4.5 Back wages and compensation paid to workers</p>

⁸ For more information, see Fundamental Rights Agency and Council of Europe (2018) [Handbook on European non-discrimination law, 2018 edition](#), European Agency for Fundamental Rights and Council of Europe.

⁹ For more information, see PICUM (2020) [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#), Brussels: PICUM.

<p>Empowerment:</p> <ul style="list-style-type: none"> Targeted measures should ensure migrant workers have meaningful access to accurate information, NGOs and trade unions, and independent legal advice. Information should be provided in a language that migrant workers can understand, and include, at least, details of relevant regulations, rights and redress mechanisms, and NGOs and trade unions. 	<p>4.6 Measures to provide accurate information, and access to NGOs and trade unions</p> <p>4.7 Eligibility for legal aid</p>
<p>Regulating intermediaries:</p> <ul style="list-style-type: none"> Private employment and recruitment agencies should be regulated and monitored for compliance, including to ensure that recruitment fees and related costs are not paid directly or indirectly by workers.¹⁰ 	<p>4.8 Regulations on private employment agencies</p> <p>4.9 Monitoring mechanism for private employment agencies</p>
<p>Corporate governance:</p> <ul style="list-style-type: none"> Due diligence and joint liability mechanisms should be strengthened to hold employers, general and sub-contractors, including labour intermediaries, accountable along supply and sub-contracting chains. 	<p>4.10 Due diligence and joint liability provisions</p>
<p>5. Social inclusion</p>	<p>Indicators</p>
<p>Pathways to settlement:</p> <ul style="list-style-type: none"> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status. 	<p>5.1 Residence counts towards long-term residence or settled status</p>
<p>Social inclusion measures:</p> <ul style="list-style-type: none"> Complementary measures to support inclusion of workers and their families regardless of status are crucial. These include non-discriminatory policies on - alongside measures to facilitate- access to education, health care and housing, and pathways to regularise status on various grounds. 	<p>5.2 Integration measures and non-discriminatory access to services</p> <p>5.3 Procedures to access a residence and work permit when irregularly resident</p>

¹⁰ For more information, see ILO (2019), [General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs](#), Geneva: International Labour Organisation; see also resources from [IOM](#) and the [WHO](#) in this area.

6. Structured dialogue with stakeholders, including migrant workers' representatives	Indicators
<p>Involvement of migrant worker representatives:</p> <ul style="list-style-type: none"> For policies to be effective, it is crucial to have structured social and civil dialogue with key stakeholders in all stages of labour migration policy development, implementation and monitoring and evaluation. The views of representatives of migrant workers, including trade unions, NGOs and migrant worker associations, should have a clear and direct influence on policy, through social dialogue and extended civil dialogue spaces. 	<p>6.1 Social dialogue/ Involvement of social partners in labour migration policy development, implementation, monitoring and evaluation</p> <p>6.2 Civil dialogue/ Involvement of civil society including migrant worker associations in labour migration policy development, implementation, monitoring and evaluation</p> <p>6.3 Impact of migrant worker representatives' views on policy process</p>
<p>Local governance:</p> <ul style="list-style-type: none"> Recognising the deep connections between labour migration and local rural and urban development, cities and villages in countries of origin and destination should also be consulted, alongside national level stakeholders. 	<p>6.4 Consultation of regional and local government authorities</p>
<p>Transparency:</p> <ul style="list-style-type: none"> To enable democratic oversight and meaningful engagement of stakeholders, labour migration policies, including bilateral and regional agreements should be transparent and public. 	<p>6.5 Public access to labour migration agreements</p>





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