

R100 Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955

Recommendation concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals concerning the protection of migrant workers in underdeveloped countries and territories, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five, the following Recommendation, which may be cited as the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955:

I. Definitions and Scope

1. This Recommendation applies to--

(a) countries and territories in which the evolution from a subsistence form of economy towards more advanced forms of economy, based on wage earning and entailing sporadic and scattered development of industrial and agricultural centres, brings with it appreciable migratory movements of workers and sometimes their families;

(b) countries and territories through which such migratory movements of workers pass on their outward and, where applicable, their return journeys, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys than is laid down in this Recommendation;

(c) countries and territories of destination of such migratory movements of workers, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys or employment than is laid down in this Recommendation.

2. For the purposes of this Recommendation, the term *migrant worker* means any worker participating in such migratory movements either within the countries and territories described in clause (a) of Paragraph 1 above or from such countries and territories into or through the countries and territories described in clauses (b) and (c) of Paragraph 1 above, whether he has taken up employment, is moving in search of employment or is going to arranged employment,

and irrespective of whether he has accepted an offer of employment or entered into a contract. Where applicable, the term *migrant worker* also means any worker returning temporarily or finally during or at the end of such employment.

3. Nothing 400 in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory.

4. The provisions of this Recommendation are without prejudice to any provision or practice, existing by virtue of law, custom or agreement, which provides for migrant workers conditions more favourable than those provided in this Recommendation.

5. Any discrimination against migrant workers should be eliminated.

II. Protection of Migrant Workers and Their Families during Their Outward and Return Journeys and Prior to the Period of Their Employment

6.

(1) Arrangements should be made by means of national or local laws or regulations, agreement between governments or any other means, with a view to providing protection for migrant workers and their families during the journey between their point of departure and their place of employment, both in the interest of the migrants themselves and in the interests of the countries or areas whence they come, in which they move about and to which they are making their way.

(2) These arrangements should include--

(a) making available mechanised means of transport, including public passenger transport, for the migrant workers and their families, where that is physically possible; and

(b) providing, at suitable stages along the routes, rest camps where lodging, food, water and essential first aid may be furnished.

7. All necessary steps should be taken to enable migrant workers to make their journeys in reasonable conditions either--

(a) in the case of recruited or engaged workers, by providing, in the regulations relating to recruitment or to contracts of employment, an obligation on the recruiter, or failing him the employer, to pay the travelling expenses of the workers and, where applicable, of their families; or

(b) in the case of workers journeying without having entered into a contract or accepted an offer of definite employment, by making provision for reducing travelling expenses to a minimum.

8.

(1) Arrangements should be made for free medical examination of migrant workers on departure for or commencement of employment, and on completion of employment.

(2) Where lack of medical staff in particular regions makes it impossible to submit all migrant

workers to this double medical examination, priority should be given to--

- (a) migrant workers coming from regions where there are communicable or endemic diseases;
- (b) migrant workers who accept or who have been in employment involving special physical risks; and
- (c) migrant workers whose journeys are undertaken in accordance with special arrangements for recruitment or engagement.

9.

(1) If the competent authority considers, after consultation with employers' and workers' organisations where both exist, that a period of acclimatisation is necessary in the interest of the health of migrant workers, it should take steps to ensure to them, and particularly to those recruited or bound by a contract, such a period of acclimatisation immediately before commencing their employment.

(2) In making its decision as to the need for a period of acclimatisation the competent authority should take account of the climate, the altitude and the different conditions of life in which the migrant workers may be called upon to work. Where it considers a period of acclimatisation to be necessary it should fix the length thereof according to local circumstances.

(3) During the acclimatisation period, the employer should bear the expense of the adequate maintenance of the migrant worker and of the members of his family authorised to accompany him.

10. Arrangements should be made to ensure to migrant workers and, where applicable, to their families the right to repatriation, during a period to be determined by the competent authority, after consultation with employers' and workers' organisations where both exist, in the following circumstances:

(a) where the migrant worker has been recruited or has been sent forward to the place of engagement by the recruiter or the employer, his repatriation should be to the place where he was engaged or from which he was sent forward for engagement and at the expense of the recruiter or the employer in all cases where--

(i) the worker becomes incapacitated by sickness or accident during the journey to the place of employment;

(ii) the worker is found on medical examination to be unfit for employment;

(iii) the worker, for a reason for which he is not responsible, is not engaged after having been sent forward for engagement;

(iv) the competent authority finds that the worker has been engaged, or sent forward for engagement, by misrepresentation or mistake; or

(b) where the migrant worker has entered into a contract of employment and has been brought to the place of employment by the employer or by any person acting on behalf of the employer, his

repatriation, together with that of the members of his family also so brought, should be to the place where he was engaged or from which he was sent forward for engagement, and at the expense of the employer in all cases where--

- (i) the period of service stipulated in the contract has expired;
- (ii) the contract is terminated by reason of the inability of the employer to fulfil the contract;
- (iii) the contract is terminated by reason of the inability of the migrant worker to fulfil the contract owing to sickness or accident;
- (iv) the contract is terminated by agreement between the parties;
- (v) the contract is terminated on the application of either of the parties, unless the competent authority otherwise decides.

11. The competent authority should give sympathetic consideration to the question whether, and if so under what conditions, migrant workers or the members of their families who have not been brought to the place of employment by the employer or by any person acting on behalf of the employer, should have a right to repatriation.

12. In the event of the death of a migrant worker, the members of his family should have the right, to be exercised within a period to be determined by the competent authority, after consultation with the employers' and workers' organisations where both exist, to be repatriated to the place where the worker was engaged or from which he was sent forward for engagement, at the expense of the recruiter or the employer as the case may be--

- (d) where they had been authorised to accompany the worker to the place of employment--
 - (i) if death has occurred during the journey to the place of employment; or
 - (ii) if the deceased worker had entered into a contract of employment with the employer; or
- (b) in other cases in the circumstances determined by the competent authority under Paragraph 11 above.

13.

- (1) Migrant workers should be free to waive the right to repatriation at the expense of the employer, such waiver to be exercised within a period and in a manner to be determined by the competent authority after consultation with employers' and workers' organisations where both exist, and not to become final until the end of such period.
- (2) Migrant workers should also be free to postpone the exercise of their rights to repatriation to within a period to be fixed by the competent authority.

14. Where standard employment contracts, to be entered into between employers and migrant workers, are established by or under the authority of the government or governments concerned, representatives of the employers and workers concerned, including representatives of their respective organisations if such exist, should, whenever practicable, be consulted as to the terms

of such contracts.

15.

(1) Arrangements should be made for the proper placing of migrant workers.

(2) These arrangements should include the creation, where appropriate, of a public employment service system which should--

(a) consist of a central office for the country or territory as a whole and branch offices both in areas from which workers normally migrate and in employment centres, so as to enable information on employment opportunities to be gathered, and to be regularly disseminated in the districts from which labour normally comes to those centres;

(b) establish and maintain arrangements with the employment services in other countries or territories to which workers in a given area usually emigrate, so as to collect information on prevailing employment opportunities there;

(c) establish and maintain, where practicable, vocational guidance facilities and arrangements for ascertaining the general suitability of workers for particular employments; and

(d) seek, where practicable, the advice and co-operation of employers' and workers' organisations in the organisation and operation of the system.

III. Measures to Discourage Migratory Movements when Considered Undesirable in the Interests of the Migrant Workers and of the Communities and Countries of Their Origin

16. The general policy should be to discourage migration of workers when considered undesirable in the interests of the migrant workers and of the communities and countries of their origin by measures designed to improve conditions of life and to raise standards of living in the areas from which the migrations normally start.

17. The measures to be taken to ensure the application of the policy described in the preceding Paragraph should include--

(a) in emigration areas, the adoption of economic development and vocational training programmes to enable fuller use to be made of available manpower and natural resources, and in particular the adoption of all measures likely to create new jobs and new sources of income for workers who would normally be disposed to emigrate;

(b) in immigration areas, the more rational use of manpower and the increase of productivity through better organisation of work, better training and the development of mechanisation or other measures as local circumstances may require;

(c) the limitation of recruitment in regions where the withdrawal of labour might have untoward effects on the social and economic organisation, and the health, welfare and development of the population concerned.

18. The governments of the countries and territories of origin and destination of migrant workers should endeavour to bring about a progressive reduction of migratory movements which have

not been subject or appeared open to regulation, when such movements are considered undesirable in the interests of the migrant workers and of the communities and countries of their origin. So long as the economic causes of these unregulated migrations persist, the governments concerned should endeavour to exercise appropriate control, to the extent that such action appears practicable and desirable, over voluntary migration as well as organised recruitment. Such reduction and control may be sought by means of arrangements at local or area level and through bilateral agreements.

19. While unregulated migrations continue the governments concerned should, as far as practicable, strive to secure, for workers who migrate under such conditions, the protection provided for in this Recommendation.

IV. Protection of Migrant Workers during the Period of Their Employment

A. General Policy

20. Every effort should be made to assure to migrant workers as favourable working and living conditions as those provided by law or in practice to other workers engaged in the same employment and to apply to them, as to such other workers, the standards of protection set out in the following Paragraphs of this Recommendation.

B. Housing

21. The arrangements to be made for the housing of migrant workers should include measures to enable such workers to be provided, either at the expense of the employer or by the provision of appropriate financial aid or by other means, with accommodation meeting approved standards and at rents reasonable in relation to the wages earned by the various categories of workers.

22. The competent authority should be responsible for ensuring the establishment of satisfactory housing conditions for migrant workers. It should define the minimum standards of accommodation and exercise strict control over the enforcement of these standards. It should also define the rights of the worker who may be required to vacate his accommodation on leaving employment and should take all necessary steps to secure the enforcement of these rights.

C. Wages

23.

(1) Arrangements should be made for wage fixing in the case of migrant workers.

(2) Such arrangements should include--

(a) adoption of a scale of minimum wage rates calculated so that its lowest rate, including any allowances, enables a worker starting unskilled work at least to meet his minimum requirements according to the standards accepted in the region and taking into account normal family needs;

(b) the fixing from time to time of minimum wage rates either--

(i) by means of collective agreements freely negotiated between the trade unions which are representative of the workers concerned and the employers or the employers' organisations

concerned; or

(ii) where no adequate machinery for fixing minimum wage rates by collective agreements exists, by the competent authority in accordance with the principle stated in clause (a) above.

24. Where relevant, the competent authority should, when fixing wages, take into consideration the results of any budgetary surveys of household consumption in the region concerned which may be available, it being understood that such surveys should be undertaken with the co-operation of the representative organisations of employers and workers.

25. Representatives of the employers' and workers' organisations, where they exist and, where they do not, representatives of workers and employers concerned, equal in number and on an equal footing, should collaborate in the operation of statutory machinery for fixing minimum wage rates.

26. The minimum wage rates in force should be communicated to the employers and workers concerned. Where the rates have been fixed in accordance with subparagraph (2) (b) (ii) of Paragraph 23, they should be binding on the employers and workers concerned so as not to be subject to abatement by them by agreement without the express authorisation of the competent authority.

27. Employers should be required to keep records of wage payments and deductions in respect of each worker. The amounts of wages and of deductions therefrom should be communicated to the workers concerned.

28. Deductions from wages should be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

29. Wages should normally be paid in legal tender direct to the individual worker.

30. Unless there is an established local custom to the contrary, and the competent authority is satisfied, after consulting representatives of the workers or of their representative organisations, that the continuance of this custom is desired by the workers, wages should be paid regularly and at such intervals as will minimise the likelihood of indebtedness among the wage earners.

31. The substitution of alcohol or any harmful substance for all or any part of wages should be prohibited.

32. Payment of wages in taverns or stores should be prohibited except in the case of workers employed therein.

33. Employers should be required to restrict any advances to workers to a small proportion of their monthly remuneration.

34. Any advance in excess of the amount fixed by the competent authority should not be legally recoverable either by the withholding of amounts of pay due to the worker at a later date or in any other way. No interest should be chargeable on advances.

35. A worker to whom minimum rates are applicable and who, since they became applicable, has been paid wages at less than these rates, should be entitled to recover, by judicial or other means

authorised by law, the amount by which he has been underpaid, subject to such limitation of time as may be determined by law or regulation.

36. Where food, housing, clothing and other essential supplies and services form part of the remuneration, the competent authority should, with the co-operation of the representative organisations of employers and workers, take all practicable steps to ensure that they are adequate, that their cash value is properly assessed and that the payment in kind does not exceed in value a certain proportion, to be fixed by the competent authority, of the basic cash wage.

D. Admission to Skilled Jobs without Discrimination

37. The principle of equal opportunity for all sections of the population, including migrant workers, should be accepted.

38. Subject to the application of national immigration laws, and of special laws concerning the employment of foreigners in the public service, any barriers preventing or restricting, on account of national origin, race, colour, belief, tribal association or trade union affiliation, access of any section of the population, including migrant workers, to particular types of job or employment should be deemed contrary to public policy and the principle of the abolition of any such barriers should be accepted.

39. Measures should be taken immediately to secure in practice the realisation of the principles set out in Paragraphs 37 and 38 of this Recommendation and to facilitate the performance of an increasing share of skilled work by the least favoured grades of workers.

40. Such measures should specifically include--

(a) in all countries and territories, provision of equal access for all workers to technical and vocational training facilities and equal possibilities of access for all workers to employment opportunities in new industrial enterprises;

(b) in countries or territories where separate classes distinguished by race or origin have already been permanently formed, the introduction of facilities enabling workers of the least favoured class to be admitted to semi-skilled and skilled jobs;

(c) in countries or territories where separate classes distinguished by race or origin have not been permanently formed, the opening of equal opportunities for all qualified workers to jobs requiring specified skills.

E. Trade Union Activities

41. The right of association and freedom for all lawful trade union activities should be granted to migrant workers in the centres where they work and all practicable measures should be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organisations.

F. Supply of Consumer Goods

42.

(1) Steps should be taken to ensure the availability of consumer goods, particularly essential products and foodstuffs, to migrant workers and their families at reasonable prices and in sufficient quantities.

(2) Land for the cultivation of crops should be made available to migrant workers, wherever possible, either by the employer or by the competent authority.

43. Where the creation of co-operative organisations would be of service, arrangements should be made for their development, including--

(a) the creation, if possible, of stock farms, fish ponds and market gardens on a co-operative basis;

(b) the creation of retail stores run by workers' co-operative;

(c) the granting of assistance by governments by training members of co-operatives, by supervising their administration and by guiding their activities.

44.

(1) Where stores are attached to undertakings, only cash payment should be accepted in them.

(2) If local circumstances do not yet permit the application of the preceding provision, the credit granted to migrant workers should be limited to a proportion of wages, to be fixed by the competent authority, and restricted to a fixed period which should be as short as possible. It should be forbidden to charge interest on credit given or to accept its repayment in work.

(3) There should be no coercion on the migrant workers concerned to make use of such stores.

(4) Where access to other stores is not possible the competent authority should take appropriate measures with the object of ensuring that goods are sold at fair and reasonable prices and that stores operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

G. Social Security, Industrial Safety and Hygiene

45. The steps to be taken for migrant workers should in any case include in the first instance appropriate arrangements, without discrimination on grounds of nationality, race or religion, for workmen's compensation, medical care for workers and their families, industrial hygiene and prevention of accidents and occupational diseases.

46. These arrangements should include--

(a) medical supervision in accordance with local possibilities by periodical visits in the course of employment, and in case of sickness;

(b) first aid, free medical treatment and hospitalisation facilities in accordance with standards to be prescribed by the competent authority;

(c) a system of workmen's compensation for accidents and for occupational diseases;

- (d) suitable assistance measures in case of accident or occupational disease; (e) measures to secure the health and safety of migrant workers in their places of employment;
- (f) measures for reporting accidents and investigating their causes;
- (g) an obligation on the employers to bring to the attention of migrant workers by notices, talks or any other means any dangerous or unhealthy features of their work;
- (h) special or additional training or instruction to migrant workers on the prevention of accidents and risks to health in places of employment when, on account of lack of familiarity with processes, language difficulties or for other reasons, the training or instruction normally given to other workers employed in the country or territory is unsuitable;
- (i) provision for the collaboration of employers and workers in the promotion of safety measures;
- (j) special health and social measures for the protection of the migrant worker's wife and children living with him.

47. Where migrant workers fail to benefit from the same treatment as other workers as regards protection against the risks of invalidity, old age and death, arrangements should be made, to the extent possible and desirable and in collaboration with the workers, for the organisation of friendly societies and works provident funds in order to meet the needs of migrant workers in these cases and as the forerunners of larger schemes on a local, district or territorial basis.

H. Relations of Migrant Workers with Their Areas of Origin

48. Arrangements should be made to enable migrant workers to maintain contact with their families and their areas of origin, including--

- (a) the granting of such facilities as may be required for the voluntary remittance of funds to the worker's family in his area of origin or elsewhere and for the accumulation, with the assent of the worker, of deferred pay which he should receive at the end of his contract or when he returns to his home or in any other circumstances to be decided in agreement with him;
- (b) facilities for the exchange of correspondence between the migrant worker, his family and his area of origin;
- (c) facilities for the performance by the migrant worker of those customary obligations to his community of origin which he wishes to observe.

I. Material, Intellectual and Moral Welfare of Migrant Workers

49. Arrangements should be made to ensure the material, intellectual and moral welfare of migrant workers, including--

- (a) arrangements to encourage voluntary forms of thrift;
- (b) arrangements to protect the migrant worker against usury, in particular by action to reduce interest rates on loans, by the control of the operations of money-lenders and by the encouragement of facilities for borrowing money for appropriate purposes through co-operative

credit organisations or through institutions under the supervision of the competent authority;

(c) wherever practicable, the maintenance in immigration areas of welfare officers who are familiar with the languages and customs of the migrant workers to facilitate the adaptation of these workers and their families to their new way of living;

(d) measures to ensure educational facilities for migrant workers' children;

(e) facilities to enable migrant workers to satisfy their intellectual and religious aspirations.

V. Stabilisation of Migrant Workers

50. Except where permanent establishment of the migrant workers is clearly against their interest and that of their families or of the economies of the countries or territories concerned, the general policy to be followed should be to seek the stabilisation of the workers and their families in or near the employment centres by all appropriate measures and particularly by those which are set out in Part IV and in Paragraphs 51, 52 and 53 of this Recommendation.

51. As stated in Paragraph 3, nothing in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory. Nevertheless, where such action is not contrary to the policy of the country concerned, the competent authority should consider affording to migrant workers who have been resident in a country for a period of not less than five years in the country to which they have migrated all opportunities of acquiring citizenship of the country of immigration.

52.

(1) Where lasting settlement of migrant workers at or near their place of employment is found to be possible, arrangements should be made to promote their permanent installation.

(2) These arrangements should include--

(a) encouragement of recruitment of migrant workers accompanied by their families;

(b) the granting wherever possible and desirable of facilities to enable the establishment at or near the place of employment of appropriate community organisation;

(c) the provision of housing of an approved standard and at suitable cost to promote the permanent settlement of families;

(d) the allocation, wherever possible and desirable, of sufficient land for the production of foodstuffs;

(e) in the absence of more appropriate facilities and whenever possible and desirable, the creation of villages or settlements of retired migrant workers in places where it is possible for them to contribute to their own subsistence.

VI. Application of the Recommendation

53. Provision should be made by the competent authority for the supervision, by the appropriate

administrative service or services, and with the co-operation of employers' and workers' organisations where both exist, of the application of the measures for the protection of migrant workers dealt with in this Recommendation.

54. In particular, in cases where the terms and conditions of employment, the language, customs, or the currency in use in the region of employment are not familiar to migrant workers, the appropriate administrative service or services should ensure the observance of any procedure for entering into employment contracts so as to make certain that each worker understands the terms and conditions of his employment, the provisions of his contract, the details in regard to the rates and payment of wages, and that he has accepted freely and knowingly these terms and conditions.

55. Each Member of the International Labour Organisation should report to the International Labour Office at appropriate intervals, as requested by the Governing Body, the position of the law and practice in the countries and territories for which the Member is responsible in regard to the matters dealt with in the Recommendation. Such reports should show the extent to which effect has been given, or is proposed to be given, to the provisions of this Recommendation and such modifications of those provisions as it has been found or may be found necessary to make in adopting or applying them.

56. Each Member of the International Labour Organisation which is responsible for any non-metropolitan territory should take all steps within its competence to secure the effective application in each such territory of the minimum standards set forth in this Recommendation, and in particular should bring the Recommendation before the authority or authorities competent to make effective in each such territory the minimum standards set forth in it.