Fair Recruitment
General Principles and Operational Guidelines

Date: 30 September 2024

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Outline of the session

1) Recruitment context

2) What is fair recruitment and its benefits?

3) ILO General principles and operational guidelines on fair recruitment

4) Definition of recruitment fees and related costs

5) Government actions and private sector initiatives

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1. Recruitment Context

➢ **Recruitment** is one of the major functions of the labour market.

➢ Employers broadly have three strategies to recruit workers:

- Directly
- Through public employment services
- Through private intermediaries

➢ International recruitment is affected by immigration regulations; fragmented labour market information; many more job seekers than jobs; weak enforcement of laws.

➢ Women migrant workers may face restrictions

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1. Recruitment Context

- High r**ecruitment** costs:

➤ Bangladesh Cost of Migration Survey (2020)

- To Malaysia:
  - Recruitment cost: **US$ 4,789**
  - Mean monthly earnings: **US$ 283**
  - Equivalent months in earnings: **16.9 months**

➤ Vietnam pilot survey (LFS 2019, published 2021)
  - Recruitment cost: **US$ 6,543** (with women paying marginally more than men)
  - Average earnings **US$ 893** (roughly the same for men and women)
  - Equivalent months in earnings: **7.4 months**

2. What is fair recruitment?

▶ What is fair recruitment?

• Recruitment carried out within the law, in line with international labour standards, and with respect for human rights, without discrimination and protecting workers from abusive situations.

• Scope: Recruitment includes the selection, transport, placement into employment and – for migrant workers – return to the country of origin of workers if needed.

• It applies to recruitment both within and across national borders.

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What are the benefits of fair recruitment?

For workers:

▶ Access to decent work

▶ Transparency

▶ Reduces recruitment debt

▶ Understanding of employment contract, working conditions

▶ Increased net earnings

For employers and recruitment agencies:

▶ Better job- skill matching Efficiency

▶ Productivity gains and staff retention

▶ Regulatory and cost transparency

▶ Protects against reputational risk

▶ Professionalization of the industry

For governments:

▶ Enabling labour market functioning

▶ Policy and regulatory clarity

▶ Protection of workers

▶ Development contributions made by migrant workers

3. ILO General Principles and Operational Guidelines for Fair Recruitment

Objective

▶ To inform the current and future work of the ILO and of other organizations, national legislatures, and the social partners on promoting and ensuring fair recruitment.

National legislation

Fair Recruitment Initiative

IOM - IRIS

Private sector codes

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General Principles and Operational Guidelines

A distinction is drawn between:

- **General Principles**: intended to orient implementation at all levels.

- **Operational Guidelines**: address responsibilities of specific actors in the recruitment process and include possible interventions and policy tools.

1 RESPECT FOR HUMAIN AND LABOUR RIGHTS	**2** RESPOND TO ESTABLISHED LABOUR MARKET NEEDS AND PROMOTE DECENT WORK	**3** RECRUITMENT LAWS AND POLICIES THAT APPLY TO ALL
4 EFFICIENCY, TRANSPARENCY AND PROTECTION OF WORKERS	**5** ENFORCE RECRUITMENT REGULATIONS THROUGH LABOUR INSPECTION	**6** RESPECT AND ENFORCEMENT OF NATIONAL LAWS AND COLLECTIVE AGREEMENTS
7 NO RECRUITMENT FEES AND COSTS ARE CHARGED TO WORKERS	**8** CLEAR AND TRANSPARENT EMPLOYMENT CONTRACTS	**9** WORKERS' FREEDOM FROM DECEPTION AND COERCION
10 ACCESS TO FREE, COMPREHENSIVE AND ACCURATE INFORMATION	**11** FREEDOM OF MOVEMENT AND NO RETENTION OF IDENTITY DOCUMENTS	**12** FREEDOM TO TERMINATE CONTRACT, CHANGE EMPLOYER, AND SAFELY RETURN
13 ACCESS TO FREE DISPUTE RESOLUTION AND EFFECTIVE REMEDIES		

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Selected General Principles

▶ Recruitment should take place in a way that respects **internationally recognized human rights, including those expressed in ILS**

▶ Should respond to established **labour market needs**

▶ Take into account policies and practices that promote **efficiency**

▶ **No recruitment fees or related costs** should be charged to, or otherwise borne by, workers or jobseekers

▶ The terms and conditions of a worker's employment should be specified …**preferably through written contracts** ….and provided before departure

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General Principles

▶ **Freedom of workers to move** within a country or to leave a country should be respected

▶ Workers should be **free to terminate their employment** ... Migrant workers should not require the employer's or recruiter's permission to change employer

▶ Workers, **irrespective of their presence or legal status** in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process

Operational Guidelines

Responsibilities of Governments

▶ Governments bear ultimate responsibility for advancing fair recruitment

▶ Gaps in laws and regulations should be closed and their full enforcement pursued

▶ Eliminate charging of fees and costs to workers – prospective employers or their intermediaries should bear the cost of recruitment; the full extent and nature of the costs should be transparent

▶ Ensure employment contracts are clear and respected

▶ Ensure access to grievance and dispute resolution

▶ Promote cooperation among actors

▶ Assess labour market needs and ensure policy coherence

▶ Raise awareness and ensure access to information for workers

▶ Ensure BLAs include recruitment aspects

▶ Ensure fair recruitment in own workforces and supply chains

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Operational Guidelines

Responsibilities of Enterprises

▶ Respect human rights

▶ Undertake due diligence regarding their recruitment activities

▶ When not practicing direct recruitment, enterprises should engage workers only through compliant labour recruiters

▶ Where is not feasible to verify directly the conduct of all parties involved in recruitment, there should, at minimum be a contractual obligation requiring labour recruiters to work with third parties in accordance with the law and these principles

▶ The enterprise should have in place a procedure for evaluating other parties in the recruitment process

▶ No recruitment fees and related costs should be charged to workers

▶ Enterprises should communicate this policy externally

▶ Enterprises should determine whether labour recruiters charge recruitment fees and related costs to workers and should not engage with labour recruiters known to charge workers

▶ Enterprises should not retain passports, contracts or other identity documents of workers

▶ May work to develop schemes that drive professional recruitment standards (i.e. industry-led initiatives)

Operational Guidelines

Responsibilities of Employers

▶ Ensure written contracts of employment are concluded and are transparent and understood by the worker

▶ Facilitate access to grievance, dispute resolution & remedy

▶ Should ensure that the right to freedom of association and collective bargaining of workers is respected in recruitment

▶ Respect freedom of migrant workers to leave, change employment or return to country of origin

Responsibilities of Labour Recruiters

▶ Should respect applicable national laws and internationally recognized human rights, bilateral agreements

▶ Ensure working and living conditions are that were promised

▶ User enterprise and employment agency should agree on allocation of responsibilities

4. Definition of recruitment fees and costs

Recruitment fees include

▶ payments for recruitment services offered by labour recruiters (public or private) in matching offers of and applications for employment;

▶ payments made for recruitment of workers with a view to employing them to work for a third party;

▶ payments made in the case of direct recruitment by the employer

▶ payments required to recover recruitment fees from workers

Related costs

Expenses integral to recruitment and placement. Competent authority has the flexibility to determine exceptions to their applicability, after due consultation, and subject to certain conditions.

Fees or related costs should not be collected directly or indirectly, (e.g., deductions from wages).

Definition of recruitment fees and costs

Conditions for exceptions (related costs)

▶ Consistent with ILS

▶ Consultation with the social partners

▶ They are in interest of the workers

▶ Are limited to certain categories of workers and specified types of services

▶ Disclosed to the worker before job is accepted

Definition of recruitment fees and costs

Related costs include

▶ Medical costs (including medical tests or vaccinations)

▶ Insurance costs (including migrant welfare funds)

▶ Costs for skills and qualifications tests (including language tests)

▶ Costs for training and orientation

▶ Equipment costs (e.g., tools, uniforms, safety gears)

▶ Travel and lodging costs (e.g., training, interviews, consular appointments, relocation, return or repatriation)

▶ Administrative costs (e.g., fees for representation/services for obtaining or legalizing workers' contracts, identity documents, passports, visas, security and exit clearances, banking services, and work and residence permits)

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Illegal, prohibitive and undisclosed costs

- Non-contractual, undisclosed, excessive or illegal costs are never legitimate
- Anti-corruption regulations must be observed at all times and at all stages of the recruitment process.
- Examples of illegal costs include bribes, forced contributions, extortion and kickbacks, deposits, illegal cost recovery and guarantees demanded by a particular actor in the recruitment chain.

5. Government actions

▶ Ratification of C181 by Japan, Fiji and Mongolia in the region

▶ GPOG/ILS used as a reference in policies and laws for fair recruitment. For example,

- Indonesia: zero-fee policy
- Philippines: Employer paid fees/costs in some occupations
- MoU between Malaysia and Bangladesh (December 2021)

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Private sector initiatives

Responsible Business Alliance

▶ Has delineated what migration costs migrant workers should not and can pay (RBA Jan. 2020). The **only** items workers can pay:

• Basic expense items to prepare of interview

• Costs to meet minimum qualifications for the job

• Passport replacement due to employee loss or fault

• Dormitory and meals (must be fair market value & meet international health & safety standards)

Thank you

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Monitoring recruitment processes and establishing effective inspection

Date: 30 September 2024

Outline

➤ The rationale behind monitoring and regulation of private recruitment agencies

➤ The roles of governments in enforcing recruitment regulations

➤ Alternatives to statutory regulation, i.e. self-regulation mechanisms such as associations and codes of practice for private employment agencies

➤ Roles, responsibilities, and initiatives of trade unions and non-governmental institutions in the promotion of recruitment monitoring

Rationale behind monitoring and regulation of recruitment agencies

1. Why is there a need to monitor recruitment?

➢ In order to effectively monitor the activities and practices of private recruitment agencies, it is important to clearly distinguish them from abuses committed by other actors in the migratory process.

RECRUITMENT BUSINESS PRACTICE	ADVERSE HUMAN RIGHTS IMPACT
High recruitment fees charged to worker	May lead to debt bondage as worker takes out high loan to fund cost of recruitment, sells assets, or has costs deducted from salary in the destination state, meaning that the migrant is not able to leave the employment (forced labour according to ILO definitions).
Deceit about terms and conditions of employment Contract	May lead to being trapped in forced labour without the ability to escape; if workers had known the reality, they would never have accepted the job or willingly migrated.
Processing fake documents	Private recruitment agencies (PRAs) are reported to do this in order to process documents quicker, because the individual is being trafficked, or because the migrant is a woman aged under 30 and from a country with a recruitment ban on women. Fake documents leave migrants in an irregular status in the destination state and consequently unprotected.

1. Why is there a need to monitor recruitment?

RECRUITMENT BUSINESS PRACTICE	ADVERSE HUMAN RIGHTS IMPACT
PRA does not check who or what will be employing the migrant, nor in what conditions this will take place	In recruiting, PRAs may deliver the migrant into a physically, sexually or emotionally abusive employment situation. Worst case scenario might be forced labour and/or trafficking, or a dangerous work environment.
PRA confiscates passport/other identity documents	Without identity documents the worker will not be able to obtain other jobs or access essential services and may be afraid to ask for help in the destination countries.
PRA engages in 'visa trading'	Workers may not have a 'real' job and be left in an irregular status with no protection in the destination state.
PRA engages in emotional and physical violence, including sexual/threats	Violence and threats. Employers (especially of domestic workers) are often reported to call PRAs to complain about workers they have placed with them and to seek their assistance in 'disciplining' migrants. This may take the form of physical/emotional violence.
PRA deliberately recruits migrants from countries which lack embassies in the destination state	Where PRAs in destination states deliberately recruit migrants from countries which lack diplomatic representation in that particular destination, this is a deliberate attempt to recruit migrants who are not able to seek protection from the overseas missions of their home country.

The roles of governments in enforcing recruitment regulations

1) Techniques for monitoring recruitment practices

- ➢ Carried out by licensing authority, regular labour inspection units, police (in the case of criminal activities).

- ➢ Law enforcement officials must have clear benchmarks and standards against which the performance of private employment agencies and other types of agencies can be evaluated:

  - ➢ conditions and criteria stipulated in the license

  - ➢ relevant labour and immigration laws

- ➢ Techniques for monitoring recruitment practices:

  - ➢ Desk audit

  - ➢ Regular and/or spot inspections

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2) Assessment of penalties for non-compliance

➢ ILO Private Employment Agencies Convention (No. 181) requires States to adopt "laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses" (art 10).

➢ Sanctions can be imposed by:

  ➢ the enforcing authority itself,

  ➢ through administrative tribunals, or

  ➢ through a court of law.

➢ Types of sanctions:

  ➢ Administrative sanctions

  ➢ Penal sanctions

3) Complaints procedure

➢ ILO Private Employment Agencies Convention (No. 181) requires the competent authority to "ensure that adequate machinery and procedures [..] exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of PEAs (art 10)."

➢ Complaints 'hierarchy':

  ➢ Contact the PEA that hired them and try to settle the dispute by voluntary agreement;

  ➢ The responsible state authority to provide impartial assistance through conciliation, arbitration and mediation. Can involve revoking and suspending licence and/or satisfy claims for refunding

  ➢ Adjudication though the legal system (court). Applies to serious abuses during recruitment (e.g. TIP). Criminal acts and requires penalties including fines and imprisonment.

Key challenges related to complaints mechanisms

4) Information reporting to responsible authorities

➢ The authorized state institution should be empowered to monitor the operations of PRA by:

- ➢ **obtaining reports** from recruitment agencies on job placement, employment status of those deployed, and other information needed by state agencies;

- ➢ **organizing periodic visits** or inspections by state agents or their representatives;

- ➢ **information campaigns** identifying recruitment agencies or foreign employers blacklisted for violations of the law or for having perpetrated illegal acts or abuses; and

- ➢ establishing efficient and competent mechanisms for **the review of migrant workers' employment contracts** prior to signature and during their employment when the contract is enforced.

➢ Information by PRAs should be provided to authorities regularly and used for

- ➢ Monitoring of trends and practice

- ➢ Consider publish list of blacklisted PRAs (Philippines example)

5) Legislative mechanisms for prosecution

➢ Carried out by licensing authority, regular labour inspection units, police (in the case of criminal activities).

➢ Law enforcement officials must have clear benchmarks and standards against which the performance of private employment agencies and other types of agencies can be evaluated:

  ➢ conditions and criteria stipulated in the license

  ➢ relevant labour and immigration laws

➢ Techniques for monitoring recruitment practices:

  ➢ Desk audit

  ➢ Regular and/or spot inspections

5) Legislative mechanisms for prosecution

➢ **Anti-trafficking laws:** sever abuse and exploitation. Very few convictions.

➢ **Criminal laws**: gang offences/organized criminal groups. Smuggling.

➢ **Administrative laws**: While these charges carry lower sentences, prosecutors can achieve significant sanctions by charging abusive recruiters for multiple crimes and/or on multiple counts.

➢ **Laws related to fraud (including tax evasion laws)**: Including visa, health care, and mail fraud, as well as under tax evasion.

➢ **Challenges:**

➢ Transnational character of recruitment poses major challenge, and jurisdiction is often an issue.

➢ There may be multiple victims and suspects across various regions, countries, and jurisdictions, making gathering evidence and arresting suspects difficult.

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Alternatives to statutory regulation: PRAs self-regulation mechanisms

PRA associations and codes of conduct

- **Associations of PRAs:** self-organizing to gain visibility and legitimacy in national and global labour markets

  - Engage in law and policy formulation
  - Create positive image of the industry
  - Raise industry standards

- Voluntary Codes of conduct

  - by individual companies or by an association
  - typically not legally binding, but should be based on international standards & national law
  - address issues of business ethics and promote quality in service delivery
  - their value has a moral character: a code of practice is a promise and a commitment to clients and the general public
  - some PRAs have competitive systems of self-regulation, such as rating or labelling

Roles, responsibilities and initiatives of trade unions and non-governmental institutions in the promotion of recruitment monitoring

Trade Unions and NGOs

➢ Being the primary advocates of workers' rights and interests, **trade unions** monitors, builds capacity, and influences policy:

  ➢ Participate in multi-stakeholder activities

  ➢ Train workers to recognize and deal with recruitment abuses or shed light on living and working conditions in destination countries during the pre-departure phase.

  ➢ TUs can participate in monitoring and oversight by collaboration with the labour administration system, and observe if recruitment principles are respected and that complaint and dispute resolution mechanisms function adequately.

  ➢ **Example**: The International Trade Union Confederation's Migrant Recruitment Monitor

➢ Some NGOs mandates covers activities related to the enforcement of fair recruitment.

  ➢ The Institute for Human Rights and Business

  ➢ Verite (Fair Hiring Toolkit)

Thank you

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Fair and Ethical Recruitment

Monitoring Recruitment Processes and Establishing Effective Inspection

Sri Lanka Experiences

Padmini Ratnayake

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Current Status of Labour Migration in Sri Lanka

- **Annual departures:** 2023 was 297,590 and 55% male and 45% females.

  2024 Jan to Sept 235,267

- **Skill level:** Professional level 6.8%, Middle level 3.48%, skilled 32.86% clerical and related 5.3%, low- skilled 26% and others 26%

- **No. of recruitment agencies-** As at Sept 2024, there are 1029 valid licensed foreign employment agencies (LFEA) including one public sector recruitment agency.

- **Key destinations:** KSA, UAE, Kuwait, Qatar and Oman and other recently promoted destinations Israel, South Korea Japan, Rumania .

- **Foreign Exchange earnings** : US $ 5969 Million (52 % from ME region) *for 2023 and Jan-June 2024 US$ Million 3144*

- **Contribution to the GDP : 8%**

Overview of Legal and Policy Frameworks for Recruitment and Monitoring in Sri Lanka

- **Laws governing recruitment in Sri Lanka**

- Sri Lanka Bureau of Foreign Employment Act- Act no 21/1985

- Sri Lanka Bureau of Foreign Employment Act-(Amendment) Act no. 4 of 1994

- Sri Lanka Bureau of Foreign Employment Act-(Amendment) Act no. 56 of 2009

- **National policy Framework**

- National Policy on Migration for Employment 2023 is the key policy, and the first Core Area of the policy is on **"governance of Labour Migration to promote decent and productive employment "**. Key strategies and activities under this policy area are formulated **to ensure a fair and ethical recruitment system , enhance professionalism in the recruitment sector and to promote decent ,safe and productive employment for Sri Lankan Migrant workers.**

Types of Recruitment Monitoring

1. State-led Monitoring

- **Constitution, National Laws and Government regulations**

- **Enforcing SLBFE Act : Section 51** *Every Sri Lankan citizen leaving the country for employment abroad must register with the SLBFE to obtain departure approval.*

   Section 37, 38, 39,40 and 51 of the SLBFE Act provide provisions on recruitment approval, recruitment cost, contract of employment.

- **State-led monitoring and enforcement of regulations**

   Role of SLBFE and its authorized officers, Sri Lanka Police

2. Non-state Led Monitoring

- *Role of the Trade Unions, CSOs, private sector initiatives, Development partners through advocacy, special projects on safe migration, human trafficking , soft laws ,Codes of conduct, etc.*

Legal Provisions for Recruitment Monitoring

- The Sri Lanka Bureau of Foreign Employment (SLBFE) Act No. 21 of 1985 and its subsequent amendments are the main legislation for governance of labour migration in Sri Lanka.

- **Section 15 of the SLBFE Act directly focus on recruitment monitoring:**
  - to assist and support Foreign Employment agencies in their growth and development
  - to assist licensees in the negotiation of terms and conditions of the employment with agencies abroad
  - to regulate the business of foreign employment agencies and recruit Sri Lankans for employment outside Sri Lanka
  - to issue license to foreign employment agencies for employment outside Sri Lanka and to determine the terms and conditions of such licenses
  - to set standards for and to negotiate contract of employment
  - to examine the authenticity of documentation issued to Sri Lankan recruits going abroad for employment

Institutional structures and mechanisms supporting monitoring of recruitment process

- **SLBFE has decentralized most of its services at the head office to 09 Migrant Resource Centers (MRCs), 07 District Centers, 02 Airport Divisions (including 01 Welfare Centre) and 02 other Training Centers within the country.**

- **Decentralize SLBFE's special investigation services to the provincial level within in order to accelerate curbing illegal activities pertaining to foreign employment.**

- Operation of Sri Lankan Diplomatic Missions in more than 50 countries, 15 labour sections in Sri Lankan Diplomatic Missions act as Overseas Branches of the SLBFE – SLBFE staff work together with the consular staff /Foreign Ministry in the Diplomatic Missions.

- 331 Divisional Secretariat (DS level) outreach through Migration Development Officers of the Ministry of Labour and foreign Employment. On average 3 officers per DS. More than 900 additional personnel supporting in recruitment monitoring

- Main operations of the SLBFE are interlinked through a web-based Information Technology (IT) System that connects all local and the labour Sections of Sri Lanka Diplomatic Missions abroad.

- Implement digital services to facilitate the LFEAs to obtain new licenses, renewal of licenses and job order approvals.

contd

- Implement a digital service to facilitate the Migrant Workers to obtain registration (self) for foreign employment

- Provide legal assistance/advice to aspirant MWs, MWs and their family members through provincial offices of the SLBFE.

- Develop professionalism & capacities of Licensed Foreign Employment Agents (LFEAs) / their staff to support an effective labour migration sector.

- Implement a grading scheme for LFEAs and Foreign Agents to evaluate and reward their performance to promote fair and ethical recruitment practices.

- The Government has enhanced horizontal policy coherence and institutional coordination for key aspects of migration such as labour migration, border management, and human trafficking.(National Advisory Committee on Labour Migration, National Border Management Committee, National Human Trafficking Task Force)

Recruitment Monitoring- What Happens in Practice

- **Licensing system for recruiting Agencies:**

- SLBFE Act No.21/1985 – Section 24 has provisions on regulation of Licensed Foreign Employment Agencies

- **Foreign Employment Agencies to be licensed - a person shall not carry on the business of a FE agency without a valid license.**

- *Applicant should be citizen of Sri Lanka, if a firm, all the partners should be Sri Lankan citizens, if a company, majority of shares should be held by Sri Lankan citizens'*

- After submission of the prescribed documents, and the payment of a prescribed fee, a team from the SLBFE visits and inspects the premises and checks the authenticity of the documents before granting approval for the license.

- License is valid for 12 months from the date of issue, to be renewed for a period of one year on the application made to the SLBFE, 30 days prior to expiry of the license

- **SLBFE would then evaluate the performances of past consecutive two years (if no recruitment was done, renewal will be not granted.) calling for reports from investigation, conciliation, legal divisions , inspect the office, equipment, records, extended bank guarantee and grant approval for the renewal of the license.**

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- **Mandatory requirements for LFEAs on reporting**

- **Every LFEAs should maintain the following records to submit to the SLBFE**

- - A return relation to the particulars of the business of foreign employment

- - Evidence of remittance to a bank in Sri Lanka of the Commission paid/payable by

- the employer- for recruitment of persons

- - A return of the commission received by him in the previous month in respect of

- recruitment

- - information in respect of Sri Lankans recruited by the Agency

- **The following books should be maintained and submission at the Inspections/investigations**
- **A** - Recruited persons information register
- **B** - Vacancy details
- **C** - Fees received from SLBFE
- **D** - Foreign Agent's registers with commission received
- **E** – Commission register

State-led Enforcement - Who does it?

- **Section 31 of the SLBFE Act make provisions to cancel the recruitment license issued to a recruitment agency under the Act, if the licensee has violated any provisions of the Act.**

- **SLBFE's License Division**
- *- conducts Agency Inspections to recommend the issuance of a license and renewal of a license*
- *- Inspect physical layout of the agency, available facilities, other infrastructure and check prescribed set of registers for granting renewal of a license*

- **Special Investigation unit**
- *- Conduct raids/ unannounced inspections on complaints/ information,*
- *- Conduct inquiries on complaints made against LFEAs*
- *- complaints made against non-licensed Agents*
- *- complaints made by LFEAs against registered employees.*

- **Intelligence Unit *of the SLBFE***
- *- coordinates with the SL Diplomatic Missions on blacklisting of recruitment agents/ sponsors/migrant workers.*

contd

- **Sri Lanka Diplomatic Mission staff in Destinations**

 -Register foreign recruitment agents who intend to recruit Sri Lankan Labour after checking their credibility

  - Follow-up complaints against recruitment   agents

- **Legal Division of the SLBFE**

 - Legal action against recruitment intermediaries who exploit and deceive prospective migrants, especially female domestic workers

 - exploring the possibility of regularizing recruitment intermediaries to eliminate such issues and monitor their recruitment activities By amending the SLBFE Act

  -Inquire complaints made against Licensed Foreign Employment Agents
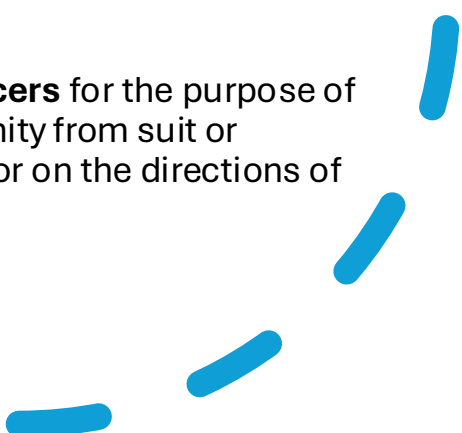
  -Inquire the complaints made against Non-licensed Agents

   -Investigate complains made by License Agents against registered

Employees

   -Handle court cases, summons and warrants issued by court

Human Resources for Enforcement

- **Investigations on recruitment agencies are conducted by the Enforcement Officers (EOs) of the Special Investigation Division of SLBFE**

- The SLBFE EOs are trained at the Police Training College to conduct investigations, evidence management, risk management, reporting, court procedures , SLBFE Act and other related legal instruments. Special training is given to update their knowledge on human trafficking, human smuggling, cyber security etc

- To expedite the license renewal process, SLBFE Provincial Managers (09) have been deployed for agency inspections only for license renewal

- To expedite the raids, obtain assistance from the police officers assigned to the nearest police stations .

Authority to Conduct Investigations/ Enforcement

- **Enforcement Officers are guided by the Manual of Procedures of the SLBFE.**

- **- Enforcement officers of the SLBFE authorized-**

  - to entry inspection and interrogation at all reasonable hours of the day/night the premises carried on a foreign employment agency

  - Inspect and take of any records required (passports, employment related documents,

  - Interrogate any person in such premises

- **Power to Arrest :** Any person who commits an offence under the Act or reasonable suspicion exists that he is guilty of the of any such offence, such person may be **arrested without any warrant** within any place by a police officer or by an authorized officer of the SLBFE and produce before a magistrate to be dealt with according to the law.

- *SLBFE officers authorized as public officers and peace officers* for the purpose of the Code of Criminal Procedure Act. They are entitled for immunity from suit or prosecution for any lawful act done in good faith under this Act or on the directions of the SLBFE

Sanctions Against wrong-doers

No	Description	2022 year	2023 year	2024 Jan- August
1	No of Raids	27	15	16
2	No of arrested persons	91	132	98
3	No of licensees arrested	14	14	15
4	No of complaints received	1337	3675	3088
5	No of complaints settled	922	1348	1021
6	Amount recovered by litigation	SLRS 38 Million	SLRS 107 Million	SLRS105 million
7	No. of cases filed	91	182	529
8	No of Agencies cancelled	73	00	00
9	Amount fined	SLRS1.1Million	SLRS 1.7Million	SLRS 1.1Million

Non-State Monitoring – Supporting Systems

- **Self regulation - Associations of the LFEAs**

- *SLBFE Act (Section 54(1) made provision for constitution of Association of Licensed Foreign Employment Agencies (ALFEA) and specific functions of the Association that includes* **'To resolve disputes and disagreements between licensees, to formulate a code of good conduct for licensees and to ensure its enforcement"**

- **Role of other key stakeholders (International organizations, CSOs, INGOs, Trade Unions, migrant worker societies)**

- *Creating awareness, Advocating, exposing exploitations, Assist to improve fair and ethical recruitment practices .*

- *Development partners (SDC funded Safe labour migration Programme, US funded Equip Project & EU funded REFRAME project)*

Thank you

Fair and Ethical Recruitment: Multi-Stakeholder Perspective

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GIZ „Shaping Development-Oriented Migration"

Hybrid Training Vietnam
30 September, 2024

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Agenda for this session: Multi-Stakeholder Perspective

Group work: Key stakeholders

Plenary discussion and wrap-up lecture

Multi-stakeholder coordination and collaboration (incl. group discussion)

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Introduction

Who are stakeholders?

- An actor is any individual, group or organisation that acts in a **purposive** way
- A collective body is an actor if:
  - There is a shared interest
  - There are formal or informal rules
  - There is a collective identity

A **stakeholder** is any actor with:

- **Stakes:** benefits or loses from the implementation of policy
- **Influence:** directly or indirectly, positively or negatively, affect or be affected by a policy

- The term 'stakeholders' is often used interchangeably with 'actors'

- However, there is a difference:
  - In brief, actors are actively involved in doing something, while stakeholders have a vested interest in the process or outcome

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Who are the key stakeholders involved in ensuring that ILO principles are upheld?

Fair and Ethical Recruitment: A multi-stakeholder landscape

- **Employers**

- **Recruitment and Employment Agencies** (public and private)

- **Governments in countries of origin AND destination** (different departments/ministries) including:
  - Foreign Affairs (e.g. for bilateral agreements)
  - Labour (including labour inspectorate)
  - Justice (complaints and criminal proceedings)
  - Education (skills training)

- **Civil Society Organisations** (national and international) and **International Organisations** (e.g. ILO)

- **Trade Unions**

- **Employer/Industry Associations**

- **(Migrant) Workers** (and their families and communities)

- **Media** (traditional and social media companies)

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Group Work

Group Work

- Your task is to think about the role of key stakeholders in your national context:

  - What interest(s) (i.e. motivation) do they have to support fair and ethical recruitment?

  - What challenges do they face in supporting fair and ethical recruitment?

  - What resources do they have that could be used to support fair and ethical recruitment? (e.g. knowledge, influence, networks, funding, capabilities, etc.)

Wrap-up lecture

Governments

Role

- Legislation, regulation and implementation

- Mediation of interests between different parts of society (e.g. workers, employers, etc.)

Interests

- To obtain/maintain support from electorates – including via the promotion of employment, efficient labour markets and economic growth; the fulfilment of human rights and wellbeing among citizens

- Soft power, reputational and financial advantages associated with supporting internationally-accepted human rights principles

Challenges

- Allocating sufficient funds and other resources to the development, implementation, monitoring and evaluation of policies

- Balancing/ reconciling the conflicting interests of different stakeholder groups

- Long term-planning and investment (i.e. beyond electoral cycles)

- Influencing governments in other countries

Resources

- Financial

- Regulatory and judicial

- Influence over public and policy debates

Employers

Role

- Hiring (migrant) workers
- Establishing and maintaining employment conditions

Interests

- Increasing profit:
  - Via e.g. increased productivity (relating to appropriate job-matching, employee retention, motivation and performance) and brand reputation;
  - Undermined by higher recruitment and employment costs (e.g. salaries, social insurance, bureaucratic procedures etc.) and, conversely, by sanctions for non-compliance with regulations.

Challenges

- Resources (e.g. knowledge and capacity to conduct due diligence and follow reporting requirements)
- Availability of fair and ethical recruiters
- External factors (e.g., business competition; business cycles; COVID-19 pandemic restrictions)

Resources

- Knowledge of evolving labour market trends
- Direct influence over employment conditions
- Indirect influence over recruitment practices (can reward fair and ethical recruitment practices)

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Private recruiters and other intermediaries

(Includes private employment agencies and also sub-agents and other intermediaries)

Role

- Connecting workers with employers

Interests

- Increasing profit:
  - Via increased demand for services (dependent on own performance and reputation [e.g. among both workers and employers])
  - Undermined by higher recruitment and bureaucratic costs, and, conversely, by sanctions for non-compliance with regulations

Challenges

- Capacity to reach all potential migrant workers (e.g. in remote geographical areas)
- Knowledge and capacity to conduct due diligence and follow reporting requirements)
- Employer reluctance to bear recruitment costs
- External factors (e.g., business competition; business cycles; COVID-19 pandemic restrictions)

Resources

- Knowledge of employer needs; and migration regulations and processes in practice
- Direct influence over recruitment practices

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Migrant Workers

Role

- Work

- Communicating with, and influencing other (potential) migrant workers

Interests

- Better migration and employment experiences

- Achievement of employment/migration goals, for greater wellbeing (e.g. savings and economic investments; skills-development)

Challenges

- Lack of knowledge and (digital) literacy

- Lack of choices (particularly in a competitive employment environment)

- Lack of access to effective grievance and dispute resolution mechanisms

Resources

- (can be empowered to have) Knowledge of rights, and knowledge to distinguish between fair and unfair recruitment practices

- Influence over other (potential) migrant workers

- Knowledge of own needs, and of recruitment and employment experiences in practice

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Civil Society Organisations (CSOs) and International Organisations (IOs)

Role

- Monitoring and oversight

- Liaison and communication

- Information and training

Interests

- Protect migrant workers

- Norm diffusion

Challenges

- Lack of financial resources and capacity

- Lack of visibility and influence (particularly CSOs)

Resources

- Knowledge of migrant worker experiences, interests and needs (particularly CSOs)

- Expertise in good practices (particularly IOs)

- Access (physical, linguistic, cultural) to, and influence over, migrant workers (particularly CSOs)

- Advocacy influence (particularly IOs)

Trade Unions

Role

- Monitoring and oversight

- Liaison and communication

- Negotiation with employers and recruiters

- Information and training

Interests

- Protect (migrant) workers

- Norm diffusion

Challenges

- Restrictions on freedom of association and collective bargaining

- Lack of capacity to engage or include migrant workers

Resources

- Knowledge of (migrant) worker experiences, interests and needs

- Access (physical, linguistic, cultural) to, and influence over, migrant workers as a trusted partner

- Lobbying influence

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Employer associations

Role

- Representing employers

- Standard-setting (e.g. via codes of conduct) and monitoring compliance

- Information and training

Interests

- Gain visibility, voice and legitimacy in public and policy debates

- Norm diffusion (i.e. to prevent a 'race to the bottom')

Challenges

- Lack of capacity for monitoring and ensuring compliance (particularly if standards are higher than legal framework)

Resources

- Knowledge of migration regulations and processes in practice; and employer experiences, interests and needs

- Lobbying influence

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Media

Role

- Reporting and awareness-raising

Interests

- Profit and influence (conditional on consumer interest in reporting on fair and ethical recruitment; and on funding for advertising, e.g. to run information campaigns)

Challenges

- Access to stakeholders

- Pressures towards 'hot topics' and sensationalism

- Independence

Resources

- Influence on public debates and awareness

Multi-stakeholder coordination and cooperation

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The importance of cooperation and coordination

Many policy issues **cannot be solved in "silos":**

- **Complex, cross-cutting issues** fall outside of single mandates
- Often require **different knowledge & complementary resources**
- May require **complementary policies across sectors**
- May require **different "entry points"** to address issues

… Yet ministries/ institutions have **unique competencies...**

- Related to **different mandates**
- **Different insights** into the policy process
- **Different topical focus areas**
- **Different networks & coordination mechanisms** across governance levels

Potential consequences of non-cooperation

- Poor resource management (e.g., duplication of efforts)

- Policy incoherence (i.e. negative impacts)

- Missed opportunities for policy synergies
  (i.e. to support and strengthen positive impacts)

Ways of fostering cooperation

- Creating **institutional structures** to foster exchange
  - Identifying existing institutions/agencies & their mandates
  - Identifying areas of joint interest/work
  - Identifying existing (overlapping) policy initiatives
- Establishing a **vision for cooperation**
- **Increasing capacity** among institutions & bridge builders
- **Mainstreaming migration** (or fair and ethical recruitment specifically) can help!

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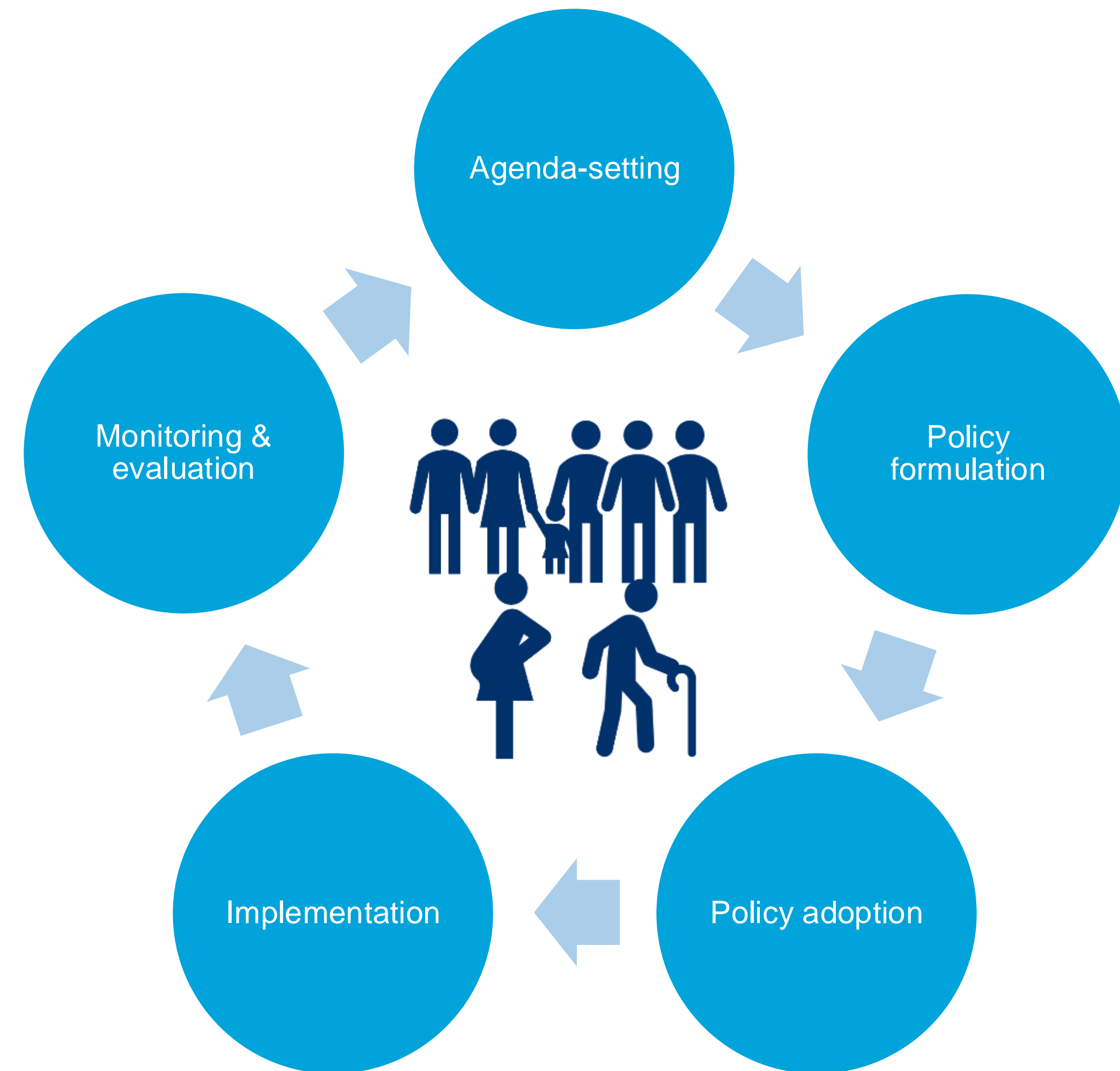
What is migration mainstreaming?

Mainstreaming migration is:

"a process aimed at inserting migration as a parameter across different **policy areas**, through **multi-stakeholder** and **multi-level mechanisms** […]

In order to bring **coherence** among policy areas that affect and are affected by migration" (IOM, 2015)

Mainstreaming fair and ethical recruitment would be:

- **Assessing the implications** that any policy (whatever the sector/department) may have on achieving fair and ethical recruitment within labour migration processes..

- And vice versa!

- With particular considerations for different groups (e.g. based on gender, age, ethnicity, etc.)

Agenda-setting

Policy formulation

Policy adoption

Implementation

Monitoring & evaluation

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Why mainstream fair and ethical recruitment?

Migration (and fair and ethical recruitment specifically) is a cross-cutting issue, i.e. affected by/ affecting other policy areas, such as:

- Education
- Employment
- Environment and climate change
- Health
- Private sector development and trade
- Rural development
- Urban development
- Security
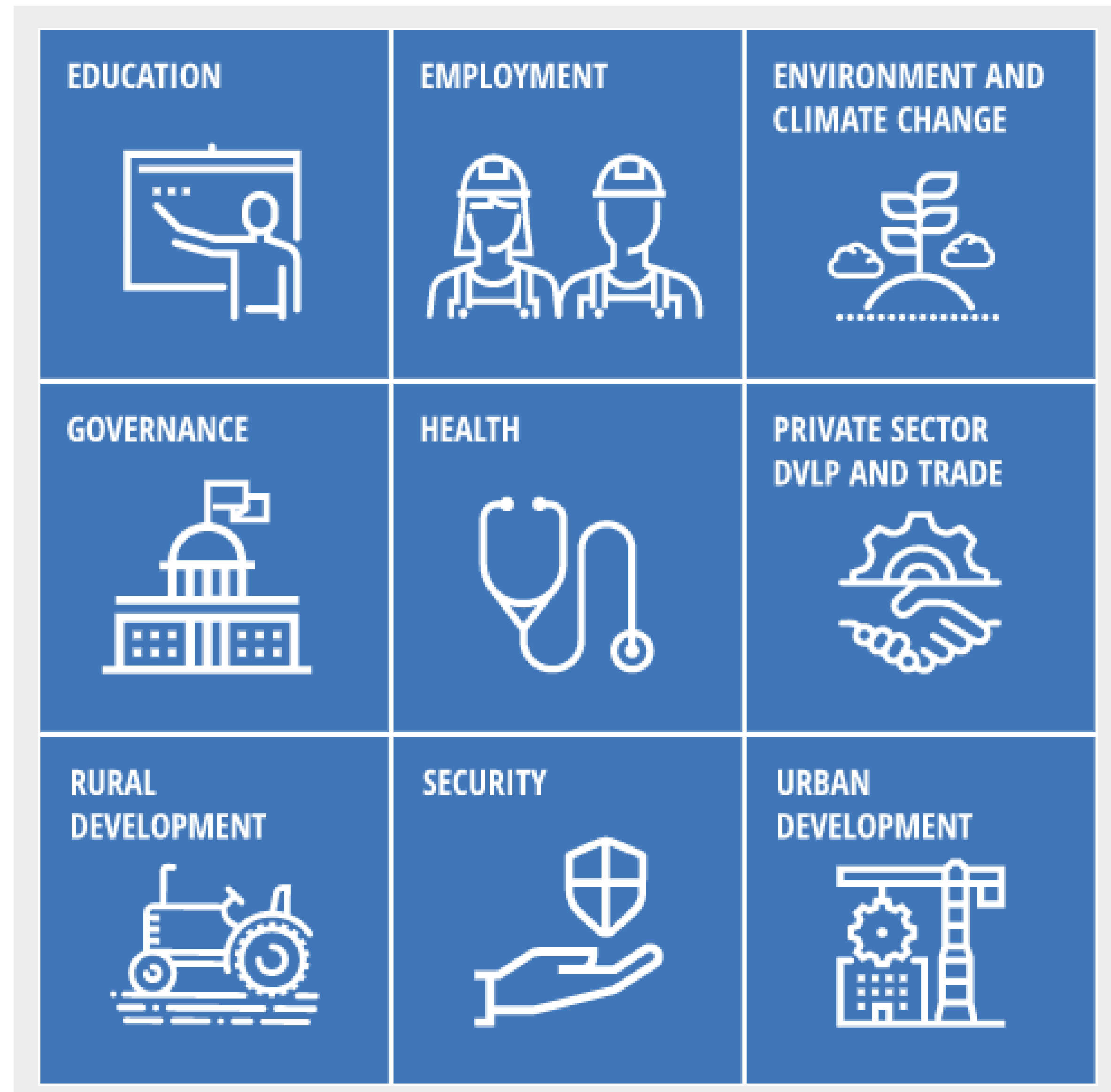
Policy coherence: Definitions

What is policy coherence?

- "The non-occurrence of effects of policy that are contrary to the intended results or aims of policy." (Hoebink, 2005, p.13)

What is policy coherence for development?

- "The synergic and systematic support [of policies] towards the achievement of common [development] objectives" (Keijzer and Oppewal, 2012, p.3)

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Types of incoherence

Incoherence may be:

| Unintended or intended	Necessary or unnecessary
• Unintended if due to a lack of knowledge or appropriate consideration • Intended if due to a considered trade-off between competing interests	• Necessary if the result of pluralistic democratic processes (i.e. negotiation between different groups and interests) • Unnecessary if the result of e.g. corrupt practices which favour one interest group over another

Policy incoherence can arise in different ways:

- (Mis)alignment between local/national policies and local/national/international strategies

- Incomplete support, resources or competencies to follow national or international policies or standards

- Lack of consultation with relevant stakeholders – and therefore misunderstanding regarding likely impacts of policy

- Lack of feedback from the implementation level to the policy-making level

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Levels of incoherence
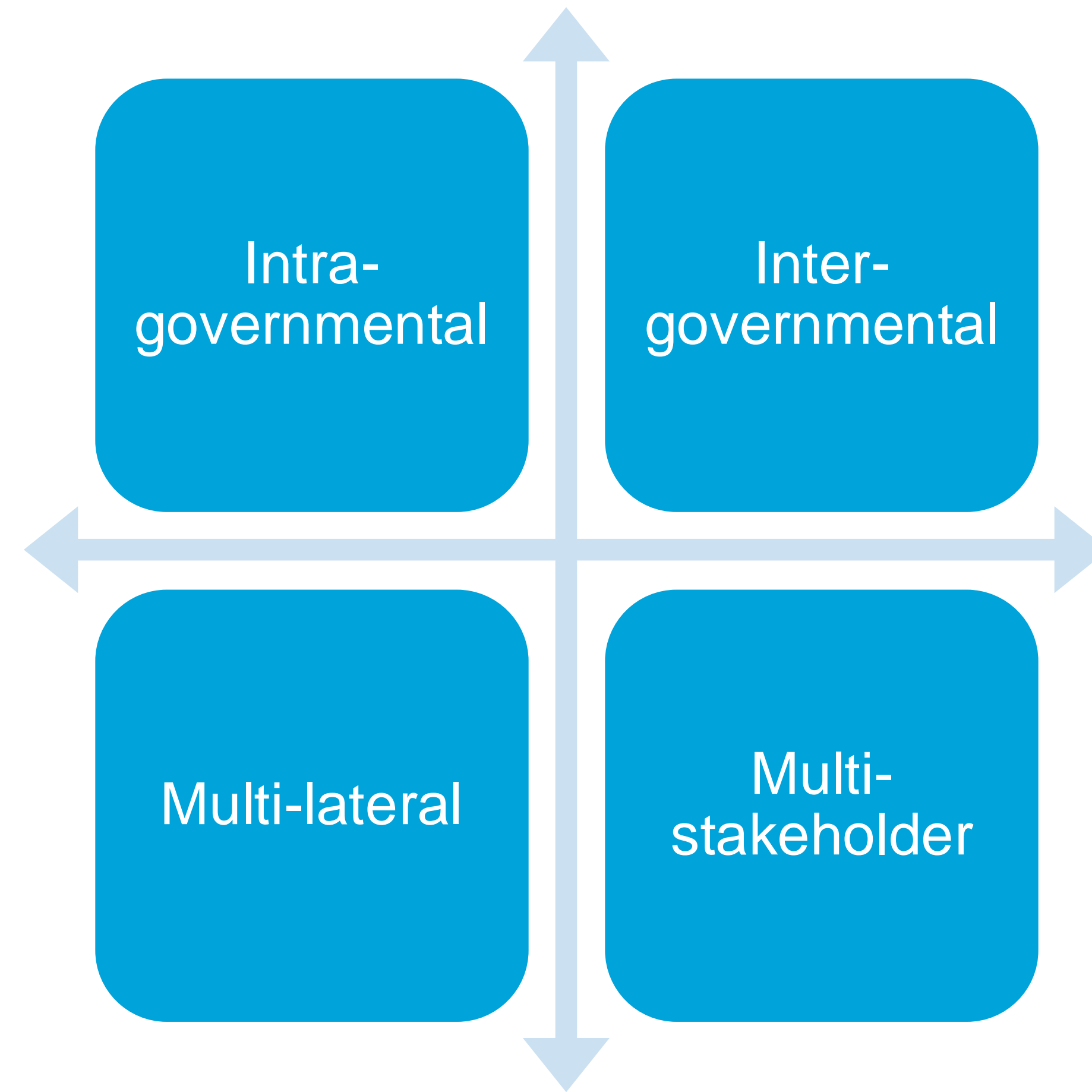
Levels of incoherence
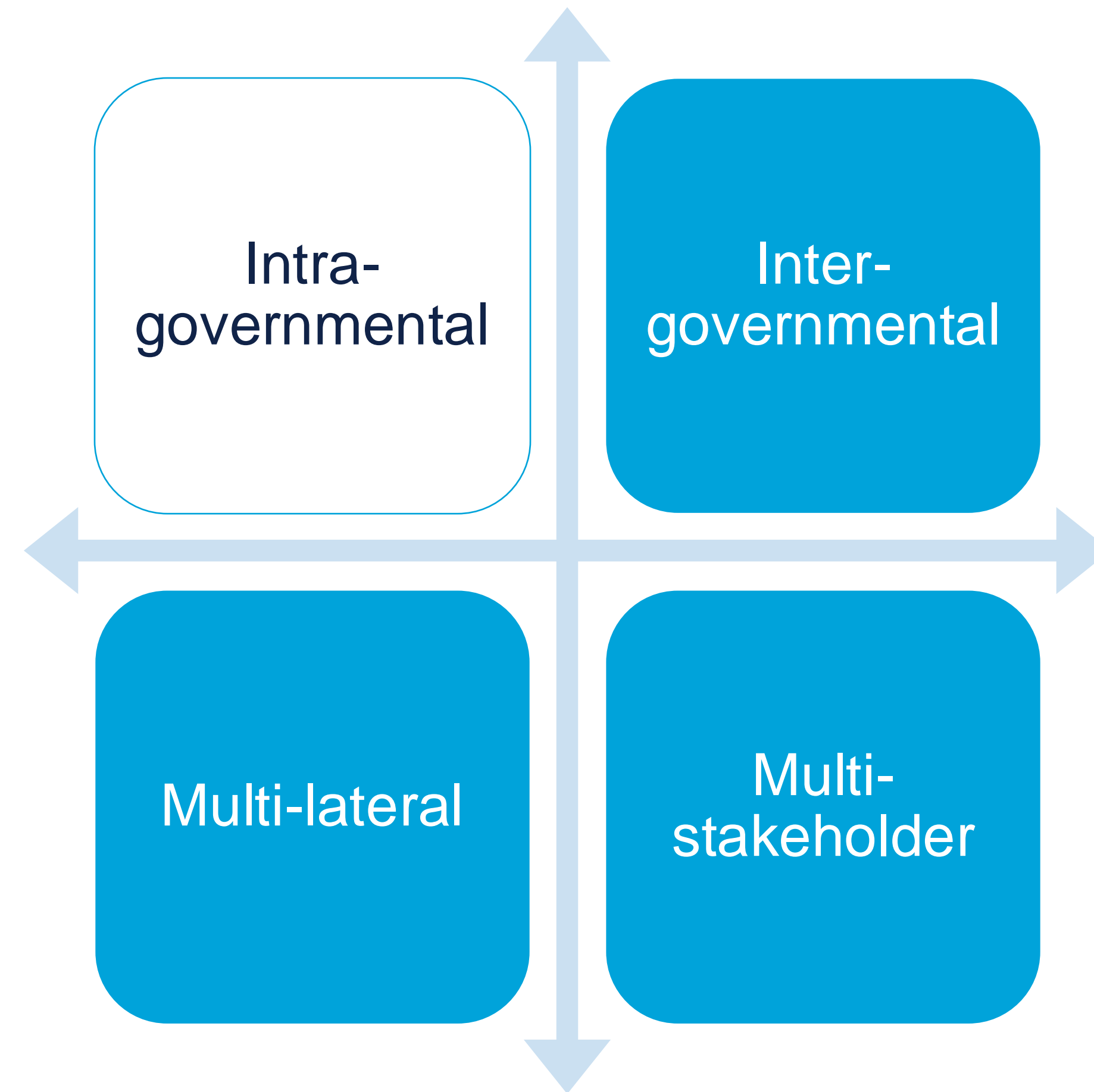
Intra-governmental coherence

Within a government

- Horizontal and vertical coherence across all policies and actions of a country, **within and between different ministries** and departments and **at different institutional levels** of government.

- Requires strong commitment; clarity about the distinct roles, values, and interests across different policy fields within a government so that these may be brought together in an overarching vision.

- Countries have implemented different kinds of mechanisms to do this.

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Intra-governmental (in)coherence: examples

Example 1:

- A governmental agency for overseas workers provides vocational training to facilitate labour migration among prospective migrant workers.

- The skills taught are in-demand in the country of destination… but not in demand in the country of origin.

- …The migrant workers are therefore faced with greater challenges reintegrating upon their return to the country of origin

- … With negative implications for the country's overall development.

Example 2:

- Due to a lack of resources/political will, a Ministry of Education does not prioritize support for the inclusion of women and girls in formal education…

- … But women and girls are under pressure to migrate for work (e.g. as domestic workers) and their lack of literacy and other skills leaves them poorly equipped to navigate the challenges of labour migration…

- …They are therefore made more vulnerable to abuse and exploitation.

Improving intra-governmental coherence: A whole-of-government approach

"The Global Compact considers that migration is a multidimensional reality that **cannot be addressed by one government policy sector alone**. To develop and implement effective migration policies and practices, a whole-of-government approach is needed to ensure **horizontal and vertical policy coherence** across all sectors and levels of government"

Institutional structures for a whole-of-government approach

Establishment of **institutional coordination mechanisms**:
- Cabinet committees
- Inter-ministerial/ inter-agency units; inter-governmental councils
- "Cluster" approach with lead agency
- Task forces

Creation of **project/intervention coordination teams**
- Technical working groups
- Steering committee

Structures for **knowledge management**: Creation of migration, employment or demographic observatories in charge of data and knowledge

Example: Switzerland's Whole-of-Government Approach to Migration
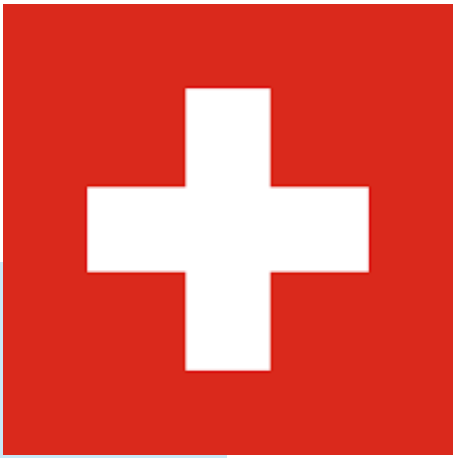
- **Comprehensive foreign policy**: Switzerland employs a wide range of activities in migration policy involving multiple federal agencies.

- **Interdepartmental coordination**: Interdepartmental Structure for International Cooperation on Migration (ICM) established in February 2011 by the Federal Council.

- **The ICM Structure has three levels**
  - The Plenum acts as the strategic body defining priorities.
  - The Committee provides operational guidance.
  - Task Forces ensure effective implementation and coordination.

ICM Structure Levels:
1. **Plenum:**
   - Comprised of directors and state secretaries.
   - Defines foreign policy priorities in migration.

2. **Committee:**
   - Led by the Deputy Director of SEM and the FDHA Ambassador for Development, Forced Displacement, and Migration.
   - Advises on operational aspects of interdepartmental cooperation.

3. **Task Forces:**
   - Focus on specific regions, countries, and topics.
   - Coordinate implementation of adopted projects and measures.

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Levels of incoherence
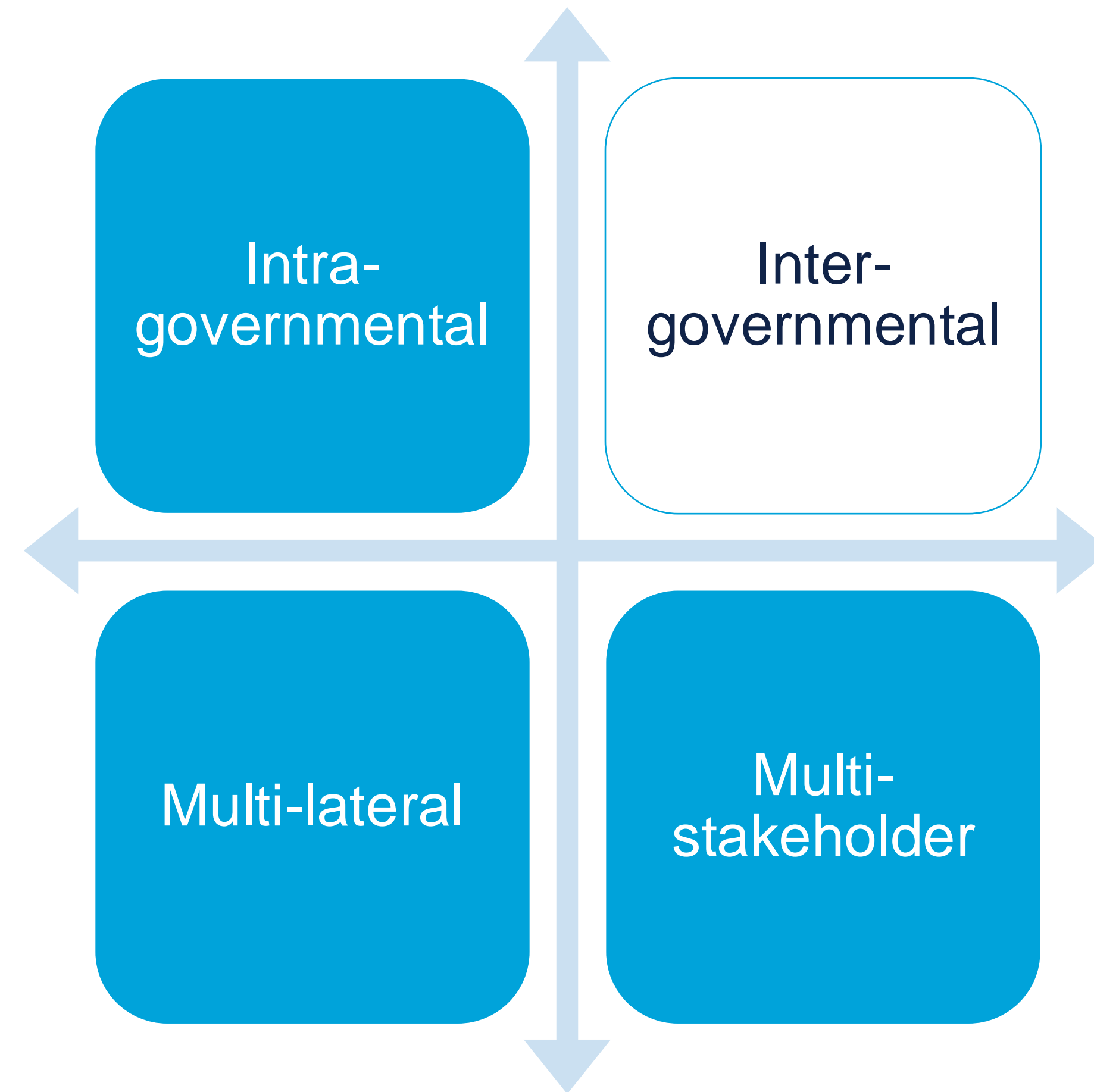
Inter-governmental coherence

Between governments

- Ensure that policies and actions are **consistent between countries**. If country A implements a policy that in turn affects country B negatively, it is incoherent

- *Mechanisms*: bilateral and regional cooperation initiatives such as mobility partnerships, dialogue processes, and regional integration initiatives, as well as agreements such as Bilateral Labour Agreements and Memoranda of Understanding

- *Challenge*: difficult to negotiate legally-binding agreements, especially in the field of migration

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Inter-governmental (in)coherence: examples

Example 1:

- Country A (a country of destination) does not sufficiently regulate (or monitor and enforce) the activities of employers and recruiters in country A

- ...Making it very difficult for country B (a country of origin) to protect their workers living in country A

Example 2:

- Country A (a country of destination) recruits many healthcare workers from country B (a country of origin)

- … Which harms the healthcare system in country B… with broader negative consequences for the productivity of workers and broader development processes in country B

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Inter-governmental cooperation for inter-governmental coherence

Figure 1. Inter-State cooperation by formality and level of engagement

Level of engagement
- Multilateral
- Regional
- Bilateral

Degree of formality

Formal
- Binding agreements
- Non-binding statements of cooperation

Less formal
- Consultative processes
- Joint capacity building and training
- Ad-hoc dialogue

Source: IOM (2022). 'Chapter 4: Advancing Inter-State Cooperation'. In *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection*. Available at: https://iris.iom.int/iris-handbook-governments-ethical-recruitment-and-migrant-worker-protection (p.6)

Example: Global Policy Network on Recruitment (I)

- The Global Policy Network (GPN) was launched by IOM's Director General and Sweden's Ambassador to the United Nations in Geneva. The Network's inaugural meeting was held on May 4th, 2021.

- Member States asked IOM to support the establishment of the GPN as a vehicle to facilitate policy dialogue, exchange of good practice and peer learning.
  - To address inconsistencies across jurisdictions, coupled with uneven enforcement capacity, which can lead to gaps in migrant protection.

- The GPN adopts a "whole of government" approach
  - Representatives of national & sub-national authorities from relevant ministries, departments, and public agencies.
  - To enhance the sustainability and impact of the Network, it adopts a multi-pillar approach to promote awareness and communications, capacity building, strategic advocacy, and data and research.

Source: https://policynetwork.iom.int/

Example: Global Policy Network on Recruitment (II)

The Network:

- Provides clear, practical guidance to promote policy coherence and good practice in recruitment regulation and migrant worker protection.
- Encourages operational and regulatory cooperation across participating jurisdictions.
- Establishes a mechanism through which guidance and strategies can be tested and scaled, and actions taken.

Thematic Working Groups

- Main vehicle for solutions and impact-oriented policy dialogue within the Network

- Cover several recruitment-related themes, including:
  - ➢ Good practice in inspection and enforcement.
  - ➢ Licensing, registration and oversight of labour recruiters.
  - ➢ Enhancing bilateral cooperation to promote ethical recruitment.
  - ➢ Recruitment in temporary and seasonal migration schemes.
  - ➢ Donor engagement to enhance migrant worker protection.

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# Example: Global Policy Network on Recruitment (III)

Inspection & Enforcement

- Established and chaired by the Norwegian Labour Inspection Authority

- Focus:
  - How the regulation of recruitment is monitored and enforced has a direct impact on its effectiveness.
  - Examine challenges and good practices related to inspections.

- The Group is guided by considerations set out in Section 4 of the Montreal Recommendations on Recruitment and Chapter 3 of the IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection.

Licensing & Oversight

- Chaired by Uganda's Ministry of Gender, Labour and Social Development

- Focus: Consider challenges, opportunities and good practices related to licensing, registration and oversight of recruitment agencies and cross-border recruitment practices.

- The Group is guided by Section 3 of the Montreal Recommendations on Recruitment and Chapter 2 of the IRIS Handbook for Governments.

Levels of incoherence
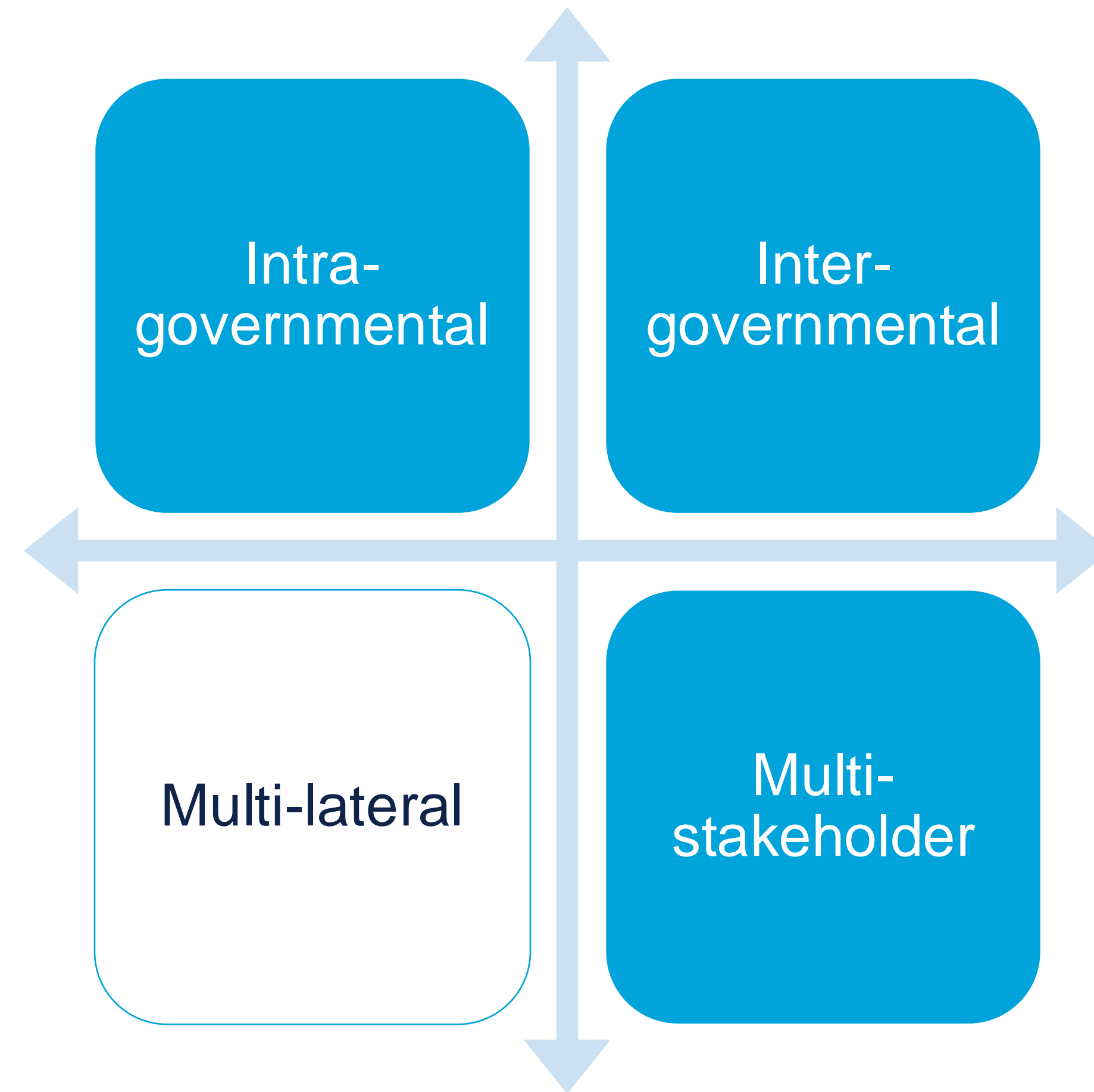
Multi-lateral coherence

Incoherence with **global norms**:

- A policy can be incoherent with **global standards** (*e.g. the ones we looked at this morning!*)

- Multilateral coherence can be improved by translating **global standards and objectives** into strategic frameworks and policies (e.g. national legislation and Bilateral Labour Agreements)

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Multi-lateral (in)coherence: examples

Example 1:
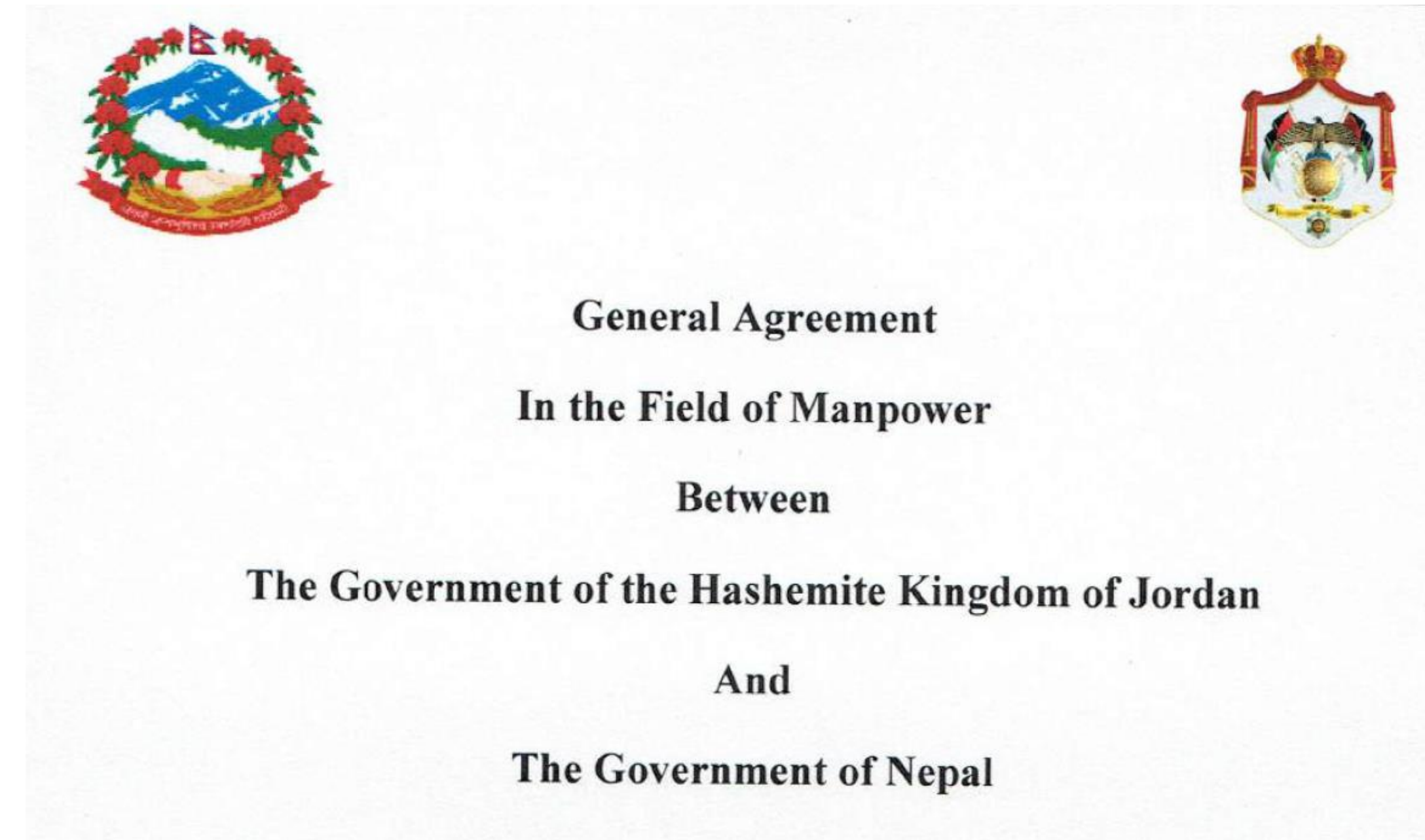
- Country A does not have national legislation prohibiting the charging of recruitment costs to workers

Example 2:

- Country A and country B sign a Bilateral Labour Agreement (BLA) which does not set out minimum standards for employment contracts for workers recruited under the BLA; and does not provide for access to a grievance mechanism for migrant workers recruited under the BLA

Example: Nepal's Bilateral Labour Agreements (BLAs) (I)

- The BLAs between Nepal and Jordan, Malaysia, Mauritius and the UAE, respectively, were drafted in line with the *General Principles and Operation Guidelines for Fair Recruitment.*

- The agreement with Jordan was signed in 2017 following tripartite discussions between Jordan, Nepal and the ILO.

- The agreement with Jordan served as a model for the agreements with the other three countries.

- These BLAs were among the first in Asia (the most important region in the world when it comes to labour migration) to be aligned to the ILO Principles.

- Other countries in the region have since tried to do the same.

General Agreement

In the Field of Manpower

Between

The Government of the Hashemite Kingdom of Jordan

And

The Government of Nepal

Example: Nepal's Bilateral Labour Agreements (BLAs) (II)

- Some key provisions included in the model agreement are:
  - ➢ Freedom to change employers
  - ➢ Fair recruitment-costs related to recruitment of workers to be borne by employers and the protection of workers against unfair practices as well human rights abuses such as harassment, abuse, forced labour and exploitation
  - ➢ Provisions for access to dispute resolution mechanism
  - ➢ Freedom of movement (prohibition of withholding of passport)
  - ➢ Access to health care benefits and adequate food and housing
  - ➢ Standard employment contract to promote transparency
  - ➢ Equality of treatment

- While these agreements offer normative guidance, their impact could be more pronounced if meetings of the *joint monitoring committee* had taken place regularly.
- Studies on the effectiveness of the BLAs could help shed further light on the extent of impact.

Levels of incoherence
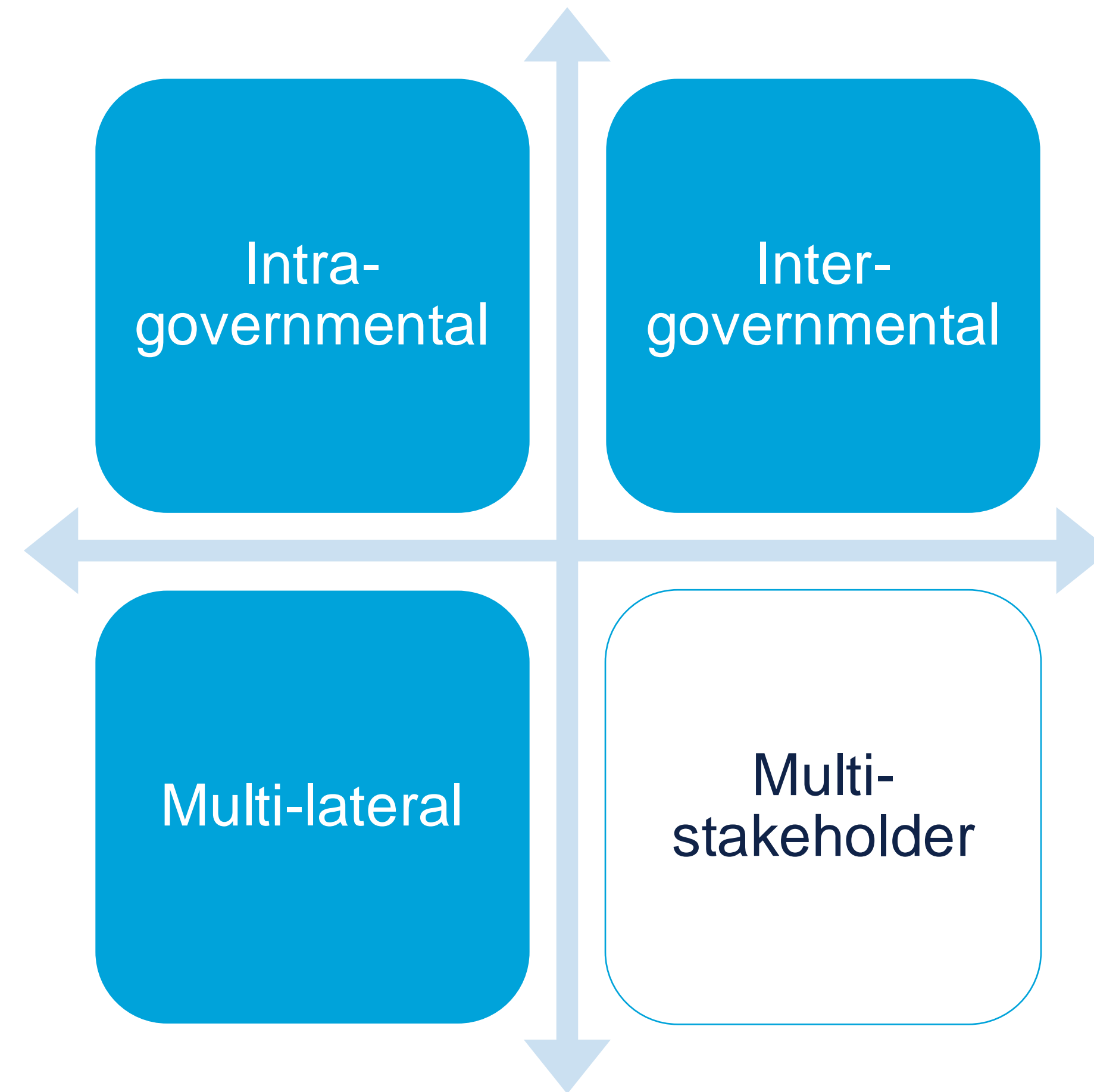
Multi-stakeholder coherence

Coherence between **different actors:**

- Requires mechanisms for **consultation and partnerships** with civil society, trade unions, media, the private sector, and migrants themselves.

- Enables **cooperation** among a range of actors around common objectives.

- Different stakeholders have unique insights into how certain policies affect fair and ethical recruitment and benefit or disadvantage migrants.

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Multi-stakeholder (in)coherence: examples

Example 1:

- In order to protect migrant workers, a government prohibits labour migration to particular countries of destination, or imposes lengthy controls (e.g. relating to the approval of contracts, or training requirements)…

- However, workers remain highly motivated to migrate for work, and cannot migrate elsewhere or wait for approval, and so migrate irregularly instead…

- Thereby resulting in reduced government control and protection

Example 2:

In order to protect migrant workers, a government prohibits the use of sub-agents by recruitment agencies, and implements a nation-wide television and social media campaign to directly promote the services of licensed recruiters…

... However, many people in rural areas do not have, or use, televisions or smartphones, and therefore continue to rely on the services of (illegal) sub-agents to connect them with recruiters and employers

Example 3:

CSOs are trained to encourage migrant workers and their families to report labour abuses through a government hotline for complaints.

…However, insufficient resources are allocated to addressing complaints reported via the hotline.

Migrant workers who report complaints therefore do not receive timely responses or action. They lose trust in the system and no longer bother to report abuses via the hotline.

Improving multi-stakeholder coherence: a whole-of-society approach

The Global Compact promotes broad **multi-stakeholder partnerships** to address migration in all its dimensions by including **migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media and other relevant stakeholders** in migration governance.

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Policymaking as an inclusive consultation process

Consultations with diverse stakeholders throughout the policy-making process can help in many ways:

- Building consensus and shared vision
- Obtaining the necessary support from various segments of society
- Improving the quality of the process and its final deliverables
- Reducing costs

Example: the Philippines Overseas Employment Administration

The Philippines Overseas Employment Administration (POEA) is the governmental authority responsible for regulating private recruitment agencies, facilitating labour migration and protecting workers.

See: https://dmw.gov.ph/archives/programs/programs&services.html

The PEO has formalized a multi-stakeholder, whole-of-government, whole-of-society approach within its governance structure:

The PEO has a **tripartite governing board** consisting of:

1. The **Secretary of Labour and Employment** and representatives of **other relevant government departments**

2. Worker representation from the **Trade Union Congress of the Philippines**

3. Employer representation from the **association of private recruitment agencies**

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Example: Issara Institute (Project Issara) (I)

Project Issara launched in Bangkok, **Thailand** in January 2014 as a **public-private sector platform** to tackle human trafficking in Southeast Asia

Initial focus on forced labor in Thailand's export oriented industries affecting global supply chains.

Project Issara is built on the experience of a team of anti-human trafficking experts coming out of the **United Nations** who created **an alliance of private sector, civil society and government partners** to address trafficking in global supply chains.

The core team is comprised of:

- **Anti-trafficking experts**, supported by Anti-Slavery International;

- **Private sector development experts** from Emerging Markets Consulting;

- **Supply chain and industry experts** from Faro Global;

- **Legal advisors** from DLA Piper;

- And a number of local **community-based organizations and victim service providers** spanning the region which form the referral network for Project Issara's helplines.

See: https://www.endslaverynow.org/issara-institute-project-issara

https://www.issarainstitute.org/

Issara's Inclusive Labour Monitoring (ILM) approach

A **multi-stakeholder collaboration**

Which **centres the migrant worker voice**

And uses a **secure, cloud-based case-management system** for real-time monitoring

https://www.issarainstitute.org/_files/ugd/5bf36e_e66626e633554881a7a0e7c9f1b06c05.pdf

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Example: Issara Institute (Project Issara) (II)

Multi-stakeholder collaboration is based on:

- **Country Action Plans** (CAPs)

- **Business Action Plans** (BAPs)

- **Real-time tracking and monitoring** via an online platform

- **Regular multi-stakeholder exchange** and sharing of experiences and learning at national and global forums

See: https://www.issarainstitute.org/ and Issara Institute (2024). *Inclusive Labor Monitoring Action Network Collaboration Framework.* Available at: https://www.issarainstitute.org/_files/ugd/5bf36e_e66626e633554 881a7a0e7c9f1b06c05.pdf

SAMPLE EXCERPT OF ILM ACTION NETWORK BUSINESS ACTION PLAN (BAP): SUPPLIER COMPANY X, 2024			
ACTIVITY	**DESCRIPTION**	**ORGANIZATION**	**REMARKS**
Worker Voice 1.3	Communications materials and trainings about grievance mechanisms	NGO Partner 1	In all worker languages
Worker Voice 1.5	Grievance mechanism training, for HR and line supervisors (language 1) and interpreters (language 2)	NGO Partner 1 and 2	Aim for completion by Q2
ER 2.2	Updating Management Service Agreements used with recruitment agencies	NGO Partner 2	Align with new customer requirements
ER 2.6–7	Recruitment systems survey and repayment (if needed)	NGO Partner 2	Aim for completion by Q3
Working Conditions 3.2	Ongoing remediation/response to worker voice	Collaborate with any ILM Action Network CSO	
Working Conditions 3.5	Worker Satisfaction Surveys	NGO Partner 1	Aim for every Q4 annually

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Group Work

Multi-stakeholder coordination and collaboration

- Based on your previous work on stakeholder analysis, consider:

  - What multi-stakeholder coordination and cooperation is already working well, and why?

  - What stakeholders in your national context can be better engaged, and for what (i.e. to take on what kind of role[s])?

  - How could you enhance coordination and cooperation, particularly with those stakeholders?

Further resources

- IOM (2022). 'Chapter 4: Advancing Inter-State Cooperation'. In *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection.* Available at: https://iris.iom.int/iris-handbook-governments-ethical-recruitment-and-migrant-worker-protection

- ILO/ITC (2021). *Training toolkit on Establishing Fair Recruitment Processes* (see, in particular, Module 3 and Module 5). Available at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_682737/lang--en/index.htm

Acting on Complaints

Best Practices in support of the Sri Lankan migrant workers complaints

Padmini Ratnayake

ILO Consultant
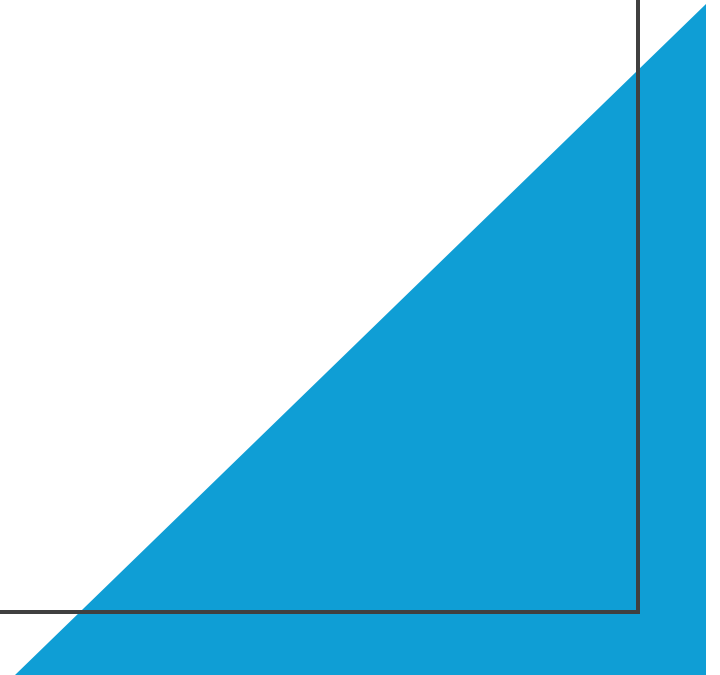
Acting on Complaints

- Sri Lanka Bureau of Foreign Employment places significant emphasis on timely resolution for migrant worker complaints.

- Ensures the accessibility and convenience for complainants by offering various channels for submission of their complaints.

- Ensures the welfare and satisfaction of SL migrant workers and aims to empower them to assert their rights and seek assistance when needed.

- Deploy trained and authorized staff to handle complaints, documentation, investigation and to provide timely ,appropriate solution

Sources of Complaints

- Individuals (Migrant Workers, Prospective Migrant Workers, Victimized Persons)
- NOKs/family members of the migrant worker
- Licensed Foreign Employment Agents (LFEAs)
- A 24-hour complaint receiving center at the SLBFE Head Office
- SLBFE Provincial/District Office/Divisional Secretariat Office
- Ministry of Foreign Affairs - Consular Affairs Division
- Sri Lanka Diplomatic Missions in Destinations
- Other Governmental Authorities/Ministries/Commissions/Police
- Members of Parliament
- Social Media (an increasing trend can be seen at present)
- Print and Electronic Media
- By post, fax ,email and telephone
- Non-governmental sources /migrant worker societies

Places to Lodge Complaints

- **Head office of the SLBFE, its Regional offices, MRCs and all District Offices (Close to the worker's residence)**

- **All complaints are entered into the Complaint Management System: (CMS)**
  - *The SLBFE has a fully automated web-based Complaint Management System (CMS) for grievances related to foreign employment. The aggrieved parities can lodge their complaints to the SLBFE Head Office or to any decentralized regional offices.*

- **Consular Affairs Division - Ministry of Foreign Affairs**
  - Mainly for undocumented workers

- **Sri Lanka Diplomatic Missions (Labour Section) in Destinations.**

- **Other referral mechanisms in the country**
  - *Provincial, District and Divisional Secretariats, Ministry of Women and Child Affairs, Sri Lanka Police, The Human Rights Commission, CSOs working on migration , migrant workers societies at local administrative levels.*

Legal Provisions for Acting on Complaints

SLBFE Act No. 21/1985 and Subsequent Amendments:

- Section 22: Duties of the representatives of the SLBFE in a foreign country; safeguarding the interest of Sri Lankans employed including the settlement of disputes with employers, **attend the complaints of SL workers and find suitable remedies/ provide recommendation to the SLBFE.**

- Sections 43 and 44 of the SLBFE Act No. 21/1985 have given power to the SLBFE Conciliation Officers to **summon the parties concerned, conduct inquiries on the complaints and grant redresses.**

- Section 63 on **forgery or inducement**;

- Section 64: **charging fee**;

- Section 66: **fails and refuses to attend inquiries are guilty of an offences under the SLBFE Act are liable to a fine** and to **and imprisonment after summary trial by a magistrate**.

Policy Provisions

- Sri Lanka National Policy on Migration for Employment 2023 is the guiding policy document for the labour migration in Sri Lanka

- The Second core policy area of this policy is dedicated to "**Secure Rights and Protection of Migrant Workers and ensure well-being of their families**" and formulate strategies and activities under this core **area to strengthen grievance handling and dispute resolution mechanisms for protection and security of migrant workers,**

Institutional set-up: Acting on Complaints

- **Conciliation Division**

  - **The SLBFE has a separate division for conciliation** of foreign employment related disputes, and it consists of trained, authorized conciliation officers to conduct inquiries and make decisions.

  - Main operations of the SLBFE are interlinked through a web-based Information Technology (IT) System that connects all local SLBFE offices and foreign Branch Offices including the Employment & Welfare Sections of Sri Lanka Diplomatic Missions abroad to support conciliation Division .

  - **The information center and a 24-hour Complaint Management System** also facilitates its main stakeholders such as Migrant workers and their Family Members, Licensed Foreign Employment Agencies (LFEAs), Prospective Migrant workers and the General Public to make complaints and to obtain various information in relation to complaint management, services provided.

Institutional set-up: Acting on Complaints

- **Investigation Division; Handling complaints at the stage of pre-departure**

- Collecting money for recruitment without having job orders by licensees, non-Licensees, sub-agents, any other intermediaries.

- Sending persons without registration of the SLBFE, underage persons, sending women workers violating the prescribed rules and regulations etc.

- **Foreign Relation Division:** Complaints not involving LFEAs, Persons in jail/hospitalized/under police custody, and complaints related to death of migrant worker etc.

- **Intelligence Division:** Oversees the blacklisting of recruitment agents, workers, sponsors/foreign employers in coordination with the SL Diplomatic missions in Destination countries.

- **Counter Human Trafficking Unit:** Receive Complaints on human trafficking and refer to Criminal Investigation Division of the Dept of Police for further investigation and legal action.

- **Business Disputes Settlement Division**: To deal with business disputes such as disputes between local agent and foreign agent.

Web-based Complaint Management System (CMS) of the SLBFE

- The CMS is a communication network for respective parties. It is a web-based platform connecting the following parties to facilitate accurate recording of the complaint and expedite its resolution process.

  - SLBFE
  - Sri Lanka Missions in destination countries
  - Local FE Agencies
  - Foreign Emp. Agencies
  - Complainants

- The parties has user rights and can log into the CMS via SLBFE network/website from any place via password.

- Complainant get updates of the resolution process via SMS to their mobile phones

No of complaints received and nature of complaints

Nature of complaint	2021	2022	2023	2024 Jan-Sept
Breach of contract	1704	1630	2214	1598
Deaths	01	01	08	04
Harassments	215	482	943	548
Lack of communication	298	347	503	407
Missing workers	53	30	51	35
Non-payment of wages	270	343	762	519
Stranded Workers	96	322	593	314
Other	1548	1345	2461	1822
Total	4185	4500	7535	5247

Based on SLBFE Statistics…..

- **Most of the complaints received from or on behalf of migrant employees relate to breach of terms and conditions of employment contract by the employer.**

  - *i.e., Non receipt of wages, not sending back the worker to Sri Lanka after completion of employment contract, harassment, premature termination of employment contract, over working etc.*

- **Annual no. of complaints received by the SLBFE stands at an approximate rate of 0.5% against the Sri Lankans contract worker population in overseas.**

- **Total complaints received in 2023 was 7535.**

Acting on Complaints - Role of Diplomatic Missions

- The Labour Section of the SL Diplomatic Mission settles complaint received directly from workers in-service with the assistance of the FEA/sponsor in co-ordination with the host country authorities.

- SLBFE has directed them to follow the *"Operational Manual of Procedure for Labour Sections in the SL Diplomatic Missions"*

- Maintain safe houses for sheltering women workers who seek assistance of the Mission to solve their issues.

- Updating CMS by collecting necessary information from destinations (Foreign Agent/government authorities) needed for speedy solution of worker complaints, checking relevant documentary proofs, approved job order/employment contracts etc.

- Providing of reports to the SLBFE on jailed/convicted workers, hospitalized persons, safe house inmates to aid/update the complainant when necessary.

SLBFE - Conciliation Process

Conciliation Process

Receiving Complaints

↓

Clarify the complaint & negotiate with respective parties (LFEA/Employee/Sponsor/FA)

↓

Register as a complaint/Request

↓

Identify nature of the complaint & priority basis (very urgent/urgent)

↓

Take immediate actions based on the Priority

↓

- Inform LFEA to take prompt action
  - ↓
  - Fix an inquiry
  - ↓
  - Inquiry held, negotiate, or issued an award to the LFEA
    - ↓
    - LEFA not complied with the award
      - ↓
      - The file is referred to the Legal Division → **Complaint resolved**
    - LEFA settled the complaint complying the award
      - ↓
      - **Complaint resolved**

- Inform the respective Mission
  - ↓
  - The Mission may settle the Complaint with the assistance of FA/Sponsor/respective authorities in the country
    - ↓
    - **Complaint resolved**

Sanctions Against LFEAs related to Complaint Management

- SLBFE Act No. 21/1985 has given power to the SLBFE conciliation officers to summon the parties concerned, conduct inquiries on the complaints and grant redresses, make an award.

- The SLBFE takes legal actions instituted in District Court by way of summary procedure against errant parties if efforts for mutual settlements fails.

- Most complaints are settled by the LFEAs complying with the awards decided by the conciliation officers .

Good Practices

- **Effective pre- departure orientation systems** for aspirant migrant workers/families at the provincial, district and rural levels to minimize migration related issues through PPP model.

- **Significant Interventions of the Development partners, CSOs , Trade Unions, Migrant worker societies at the rural level** to aware rights and responsibilities of migrant workers and migration related issues through special programmes/ awareness creation etc.

- **Accessibility of the Complaints Management System –** At the District Offices ,Hot lines, via phone, fax and emails and social media in local languages.

- **A Conciliation process for parties to discuss and agree on a solution/settlement rather than direct legal proceedings** which migrants and their families may have difficulties navigating.

- **Status report of the Conciliation division is a mandatory requirement at the License renewal stage .** Valid LFEAs list is published online, available for any prospective migrant to check.

- **Decentralized and digitalized services** of the SLBFE and the Consular Affairs Division of the M/FA.(legal assistance, medical assistance, counselling, repatriation , access to justice especially in destination countries etc)

- **Explore the possibility of introducing Mediation Boards** for Migrant Worker issues/ dispute resolution as an independent mechanism.

Thank you

Fair and Ethical Recruitment: Migrant Worker Preparation & Awareness

Dr. Talitha Dubow & Dr. Katrin Marchand
UNU-MERIT, Maastricht University

GIZ „Shaping Development-Oriented Migration"

Hybrid Training Vietnam
1 October, 2024

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Agenda for this session: Migrant worker preparation and awareness

- Information initiatives
- Orientation programmes and skills training
- Group-work
- Wrap-up lecture

Information initiatives

Multi-stakeholder approach to information provision (I)

- **Government**
  - Primary responsibility for communicating key information to (potential) migrant workers – e.g. regarding rights and obligations according to legal frameworks
  - Includes both governments in countries of origin and destination
  - Can directly provide information, or indirectly (i.e. via collaboration)
  - Most effective when information provision is:
    - Inter-state (i.e. coordinated between counties of origin and destination); and
    - Whole-of-government (i.e. coordinated between national and local governments, and across different ministries/agencies)

- **International organizations**
  - Can offer international technical expertise and experience to help develop and implement information initiatives

Multi-stakeholder approach to information provision (II)

- **Civil society and trade unions**
  - Often have direct, day-to-day contact with (potential) migrant workers and their families
  - Often trusted by (potential) migrant workers and their families
  - Often have unique insights into the needs and experiences of (potential) migrant workers and their families

- **Recruiters and employers**
  - Also an important direct point-of-contact for (potential) migrant workers – can therefore be involved in the design and dissemination of informational initiatives
  - However, may not be as trusted by (potential) migrant workers, and may not be as willing to communicate certain types of information (e.g. on access to grievance mechanisms)
  - Most important that recruiters and employers include clear, accurate and relevant information in employment contracts (and should be required to do so by law)

Different modes of information provision (I)

Non-interactive

- Leaflets, booklets and handbooks
- Posters
- Billboards, newspaper and social media adverts
- Websites, social media pages and smartphone apps
- Radio broadcasts and podcasts
- Videos
- TV adverts or segments

Interactive

- Migrant resource or information centres
- Mobile information and/or support clinics
- Telephone hotline
- Online chat/messaging platform
- Kiosks or stands at job fairs and community events
- Webinars (e.g. live-streamed events on social media platforms)
- Verbal briefings and Q&As (e.g. during entry/exit procedures or community events/ labour inspections)
- Orientation and training programmes

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Different modes of information provision (II)

Both modes (i.e. interactive and non-interactive) are highly **complementary**, and **should be used together:**

- E.g. a **leaflet** (non-interactive) can refer to a **hotline** (interactive)

- And a migrant can go home from an in-person **briefing/meeting/training** (interactive) with an informational **leaflet** (non-interactive)

In this way, a mix of modes/formats can help to meet different needs, at different times – e.g. both **simple key messages** and more **detailed explanation and advice** are needed.

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Orientation programmes and skills training

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Orientation programmes and skills training

- In general, orientation programmes educate potential and current migrant workers on **living and working conditions** in the destination country, and on their **rights and access to protection and support**
  - Can vary between a few hours, days or weeks

- Longer/ more intensive trainings may be designed to develop practical and vocational skills (e.g. job-specific) as well as language skills

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IOM Comprehensive Information and Orientation Programme

Approach: Tailored and timely **gender-responsive** information should be **available throughout the labour migration cycle** in order to **empower migrant workers** to effectively navigate life and work abroad, access assistance and support and meet their financial goals.

Based on **multi-stakeholder collaboration**

See: https://www.iom.int/ciop

Pre-Employment Orientation (PEO): Equips prospective migrant workers with information to support well-informed decision-making processes on foreign employment and provide accurate information on safe and ethical recruitment.

Pre-Departure Orientation (PDO): Supports outgoing migrant workers to ensure their departure process is safe while also providing information on the upcoming journey, adjustment period and how to access support and assistance.

Post-Arrival Orientation (PAO): Provides newly arrived migrant workers in the country of destination with information regarding national labour laws, sociocultural norms and practices, workplace expectations and good conduct.

Pre-Return Orientation (PRO): Helps prepare returning migrant workers before leaving the country of destination, with useful information to support their access to social protection schemes, skills development opportunities and related resources.

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Examples of orientation programmes

Ethiopia

Ethiopia's Ministry of Labour and Skills (MoLS) is mandated to provide pre-employment and pre-departure orientations

Generally **two-days, in person**, in dedicated centres located around the capital and throughout the country

Trainings are **tailored to gender and occupational needs**, e.g. a specific training manual has been developed for Ethiopian domestic workers

- Covers topics including: airport custom procedures, working relationships with employers, labour rights and responsibilities, health (including sexual) and occupational safety, managing and remitting money, etc.
- 21 **video modules** are also available to facilitate **remote learning**

Vanuatu

Vanuatu's *Famili I Redi* (Family Ready) programme consists of a **five-day pre-departure workshop**, to prepare for labour migration to Australia and New Zealand

Focussed on preparing not only the individual migrant, but also their **family**, e.g. through emphasis on:

- Maintaining good communication and healthy family relationships
- Prevention of gender-based violence (e.g. through sessions on emotional intelligence, non-violent communication, stress management and constructive decision-making)
- Family budgeting and financial management

Good practices for information and training initiatives (I)

- Involve **multiple stakeholders** in the design of information/training initiatives to ensure that they meet relevant needs, e.g.:

  - Private sector actors (recruiters and employers)

  - Trade union and CSO representatives

  - Migrant worker representatives (e.g. including returned migrant workers)

- Ensure that any information/training initiative is designed on the basis of **clear objectives, intended audience and content**

- Ensure that information/training initiatives are **responsive to evolving informational** (including misinformation) **and skill needs**

  - I.e. design of content should be based on regularly updated assessment of migration corridor and worker needs and experiences

Migrant-facing information initiatives should be:

- Participatory and responsive to information gaps
- Accessible
- Clear and accurate
- Flexible and up to date
- Tailored and timely to specific contexts and needs
- Monitored and evaluated
- Combined with information to recruiters and employers

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Good practices for information and training initiatives

- **Tailor information/training programme** (content and delivery) to intended destination country and group of migrant workers

- Ensure that information is **accessible** – i.e. free, multilingual, and easy to find and share
  - Geographic dispersion, and different modalities (e.g. in-person and online) can help accessibility
  - Special outreach efforts may be needed e.g. for remote rural communities, for example through mobile units

- With regards to skills training, ensure **standardized training and qualifications** to ensure properly qualified workers and to build trust in worker skills and qualifications

Migrant-facing information initiatives should be:

- Participatory and responsive to information gaps
- Accessible
- Clear and accurate
- Flexible and up to date
- Tailored and timely to specific contexts and needs
- Monitored and evaluated
- Combined with information to recruiters and employers

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Good Practice Example: Migrant Resource Centres

Good practice: Migrant Resource Centres

Montreal recommendation:
Governments should support the establishment of MRCs in countries of origin, as well as in countries of destination. MRCs can provide a physical space with associated multilingual staff for migrants to seek information about migration, employment, labour recruiters, access to healthcare, housing and grievance and dispute resolution mechanisms. MRCs may also facilitate access to free legal assistance.

- Sometimes referred to as migrant information centres, support or service centres, advice or advisory offices, or **"one-stop shops"**
- Can provide both **information** and **practical services and assistance**
- Can be established in both **countries or origin** and **countries of destination**
- Having related services clustered together helps to:
  - Ensure the **accessibility** of information and services;
  - **Coordinate** information and service provision;
  - **Share knowledge** between service providers.
- Should offer **safe and welcoming environments**
  - Staff need to be **sufficiently trained;**
  - And have relevant **language and cultural competencies.**

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Tailoring information/ training content and delivery

Question

- **In what ways might the content, format or delivery of information and training need to be tailored to the needs of different groups?**

- Can you give examples?

- Consider, e.g.:

  - Occupation, skill-level, gender, ethnicity, geographic location, age, (digital) literacy and access to technology

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The potential of digital technology for information and training provision

- Use of digital technologies for information transfer, communication and training can be used:
  - **Throughout the migration lifecycle** (i.e. pre- and post-departure, and upon return);
  - By people in **remote locations**
  - And in the context of **barriers to in-person interaction** (e.g. where mobility is constrained due to employer abuse, or during pandemic restrictions)
- **Multimedia tools** (e.g. video, cartoons, interactive graphics) can make information **more engaging and accessible**
  - Including by people with low literacy
  - Learning can also be **"gamified"** to promote engagement (e.g. like Duolingo for language-learning!)
- Digital platforms can facilitate **peer-to-peer exchange and support**, e.g. through social media and messaging applications
- Interfaces should be **user-friendly** (i.e. easy to use) and tailored to appropriate language and audiences

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See: ILO (2021). *Use of digital technology in the recruitment of migrant workers*, Geneva

Examples of digital platforms for information-provision

▶ Table 8: Asia-based ICT solutions providing information for migrant workers

BdeshJaatra Bangladesh Launched 2020	BdeshJaatra is a mobile phone application and information platform that was developed by IOM in collaboration with BDjobs, Bangladesh's largest jobs site, to deliver migrant-friendly information services. The app contains information that is relevant to prospective migrants, migrants currently overseas, and returnee migrants such as remittance management, medical services and legal services. All of the content within the app is based upon "Publicly Available Information of Government of Bangladesh", a project led by the Ministry of Expatriates' Welfare and Overseas Employment. Since the app was launched in late 2020, it has been downloaded over 500 times.
Miss Migration Myanmar Launched 2018	Miss Migration (Mel Shwet Pyaung) is a Facebook chatbot that was developed and is managed by IOM X with support from USAID as part of a regional anti-trafficking campaign. The chatbot processes information queries and directs users to official migration information on government websites to help them make informed migration decisions. Miss Migration is regularly updated by IOM to answer questions related to procedures for regular migration, security during migration, and rules and regulations in destination countries. The Facebook profile page that houses the chatbot very regularly posts additional relevant content and has over 20,000 followers.

Source: ILO (2021). *Use of digital technology in the recruitment of migrant workers*, Geneva (p.29)

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Group Work

Group Work

- Your task is to consider what **information and knowledge** (potential) migrant workers need in your country context, and how this can best be provided.

- In groups, please discuss (and take notes on):

  - **What** information (potential) migrant workers need?

  - **When** they need this information?

  - **How** this information can most effectively be communicated to them, and by who?

- Please consider and discuss the informational needs of **different migrant groups** (e.g. including women, ethnic minorities, and other potentially vulnerable groups)

- You can consider both **emigrant and immigrant** migrant workers in your country context

- Please be ready to share at least one idea in the plenary.

Group Work

- [Vietnamese translations needed]

Wrap-up: types of information needed by (potential) migrant workers

Information on rights, recruitment and employment conditions (I)

- The **recruitment process** (e.g. steps involved, timelines, types of approvals and/or tests required, fees and costs and who pays, etc.) and key obligations of governments, recruiters and employers;

- Relevant **labour, recruitment, and migration laws and associated rights** (e.g. minimum labour standards on working hours, periods of rest, and leave; recruitment fee prohibitions, right to keep passport, freedom of association including right to join and be represented by a union, etc.);

- Relevant **complaint, grievance and dispute resolution mechanisms**:
  - What remedies are available (compensation, recovery, etc.);
  - How to assert rights and access remedy in case of rights violations;
  - What evidence can and should be provided to support a claim and how to collect and keep relevant records (e.g. wage slips, pay stubs, bank statements or other proof of financial transaction, contracts, diaries, notes on recruiters, employers and their representatives including names and contact information, copies of emails or text messages, records of verbal agreements, photos, videos, letters of explanation, letters of support, victim impact statements, witness testimonies, etc.);
  - Who can assist and support workers during this process.

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Information on rights, recruitment and employment conditions (II)

- **Recruitment actors and their compliance history**:
  - Signs to recognize illegal recruiters including red flags (e.g. allegations of fee charging, misrepresentation, relevant legal proceedings), methods to verify and distinguish licensed and unlicensed recruiters (e.g. public list of licensed recruiters), including other regulated actors in the migration process (immigration brokers, consultants, lawyers, etc.).
- **Unethical recruitment, forced labour and trafficking**: what it is, what it looks like, signs, risks, etc.;
- **Terms and conditions of employment**, including the employment contract and any relevant information as set out in bilateral agreements (e.g. specific to industry or occupation);
- **Procedures related to leaving an employer** (e.g. options, consequences);
- **Job opportunities** (public job boards) and general labour market information for informed decision-making, including job verification procedures where relevant.

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Information on the labour migration process

- **Exit** and **admission** requirements, including relevant emigration and immigration laws, policies and rules including rules related to visas, work permits and residency, status adjustments and right and procedures to change employers, and implications in case of non-compliance;

- How to navigate international **travel** procedures (e.g. check-in, documents, airport security, etc.);

- **Registration** procedures with origin and destination authorities and relevant consular protection.

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Information on general living and working conditions

- What to expect when **residing** and **working** abroad (e.g. sociocultural norms and customs);

- Available **social protection** measures (e.g. social insurance or security, health-care coverage);

- Other services and support including **health**, **psychosocial**, **legal** and **emergency** assistance;

- **Financial education and literacy** (e.g. taxation, remittance transfer and management, budgeting, saving and investment, and banking services);

- **Language, vocational** and other **training** opportunities;

- **Housing** rules and entitlements (e.g. employer-provided and/or shared accommodation and permissible costs where applicable) and emergency and transitional shelter options;

- **Gender-sensitive** support and services in case of sexual harassment, abuse and gender-based violence;

- **Contacts** in case of emergency, services or assistance (migrant serving organizations and networks, trade unions, emergency numbers and hotlines, consular support and diplomatic representation, etc.);

- **Social support** and **diaspora** networks;

- Information and services related to **stress management**, **family separation** and **mental health**.

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Wrap-up: some last examples for inspiration

In countries of destination

United Arab Emirates

- The Ministry of Human Resources and Emiratisation has produced a "**Know your Rights**" guide
- Communicates **seven important messages** or "takeaways" for migrant workers about their rights, e.g. regarding recruitment costs and employment contracts
- Available in **seven different languages** commonly spoken by migrant workers
- More detailed information is instantly accessible through a **QR code**, and on a dedicated government webpage

Dear Worker,
Know Your Rights

Welcome to the United Arab Emirates. We hereby invite you to read the instructions we provide you with through this guide for you to become aware of your rights and duties, upon reiterating that such privileges are protected by the Decree Law No. (33) of 2021.

For more information on the Labor Law, scan this code through your smartphone camera.

Source: United Arab Emirates Ministry of Human Resources and Emiratisation, 2022.

Mauritius

- Has similarly produced a "**Know your Rights guide for migrant workers**"
- Also available in different languages
- Distributed to workers at their **employment sites**
- Unique feature is a pull-out summary section that can be kept as a smaller "**pocket guide**" for immediate reference

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Inter-state collaboration

"Know Your Rights" information campaign

- Collaboration between **Norway** (Norwegian Labour Inspection Authority) and several countries of origin (including experts from **Bulgaria, Estonia, Lithuania and Romania**)

- Innovative use of **digital technologies**:
  - In addition to government website, **targeted ads** used across **social media** (targeting 40 different facebook groups in which migrant workers are active)

- Campaign has led to an **increase in the number of contacts to call centre and non-compliance tips**

You could also be entitled to twice as much

KNOW YOUR RIGHTS
A cooperation between

Source: Norwegian Labour Inspection Authority, 2020.

Consular Partnership Programme

- To reach migrant (including irregular) workers, the **US Department of Labor** established partnerships with **foreign consulates**

- Together, they sponsor **outreach activities**, e.g. via **trade unions, employers, and faith- and community-based organizations**, to engage migrant workers in the US who may be nervous or unwilling to engage directly with US governmental authorities

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Don't forget!

- To monitor and evaluate information and training initiatives, and embed feedback loops to improve future approaches

- The informational needs of other stakeholders!
  - E.g. governmental officers; employers, recruiters and intermediaries; trade unions and civil society organisations

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And for more information and inspiration, see:
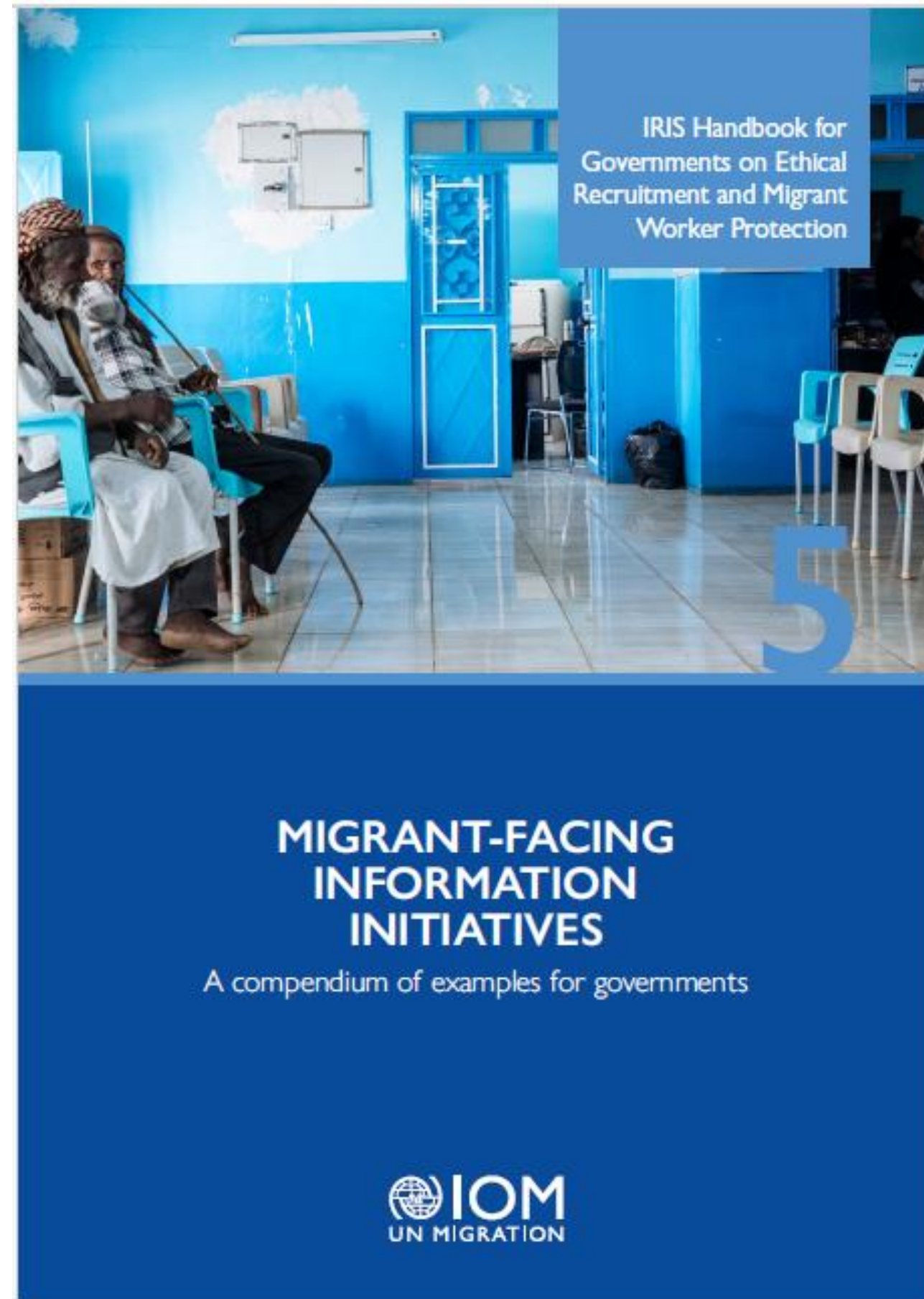
International Organization for Migration (IOM), 2023. *Chapter 5 - Migrant-facing Information Initiatives*. In: IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection. IOM, Geneva. Available at: https://publications.iom.int/books/iris-handbook-governments-ethical-recruitment-and-migrant-worker-protection-chapter-5-migrant

International Labour Organization, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS). 2021. *Use of digital technology in the recruitment of migrant workers*. ILO, Geneva. Available at: https://www.ilo.org/global/topics/fair-recruitment/publications/WCMS_831814/lang--en/index.htm

IOM X website, for free, downloadable resources (including editable templates) to support informational initiatives: https://iomx.iom.int/resources

This is a library of downloadable IOM X materials. This includes videos, factsheets, presentations, research and training guides that you can use to support your own communication campaigns. We provide editable files for most of our materials so that you can reversion as needed for your own target audiences.

Type

Reports (1)
Toolkits and training materials (1)

C4D Toolkit R&L Annex: Know Before You Go

Toolkits and training materials

This annex of the   2017-01-09
Communication for
Development (C4D) Toolkit is a
short guide that details the C4D
process that IOM X used to
create the safe migration video
Know Before You Go.

READ MORE ➔

Know Before You Go - Impact Assessment Summary

Reports   2016-01-05

This summary report explores
the impact of Know Before You
Go, an animation created by IOM
X to help increase understanding
in young aspirant migrant males
how to migrate safely for work.

READ MORE ➔

Theme

Campaigning (C4D) (1)
Safe migration (1)

Language

English (2)

Thank you! Any questions?

Return and Reintegration

Dr. Talitha Dubow & Dr. Katrin Marchand
UNU-MERIT, Maastricht University

GIZ „Shaping Development-Oriented Migration"

Hybrid Training Vietnam
1 October 2024

Agenda for this session: Return and reintegration

Introduction to reintegration

Support for reintegration

How can reintegration be supported through fair and ethical recruitment?

SWOT Analysis

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Introduction to return and reintegration in the context of fair and ethical recruitment

- For most migrant workers – especially those on temporary labour contracts – **return to the country of origin is an inevitable part of the migration experience** and lifecycle.

- Policies to support fair and ethical recruitment must consider the whole migration lifecycle – including return and reintegration…

- …But typically much more emphasis is given to the earlier stages of migration!

- Return may be **planned from the outset** (e.g. at the end of a contract period)…

- … or may **happen unexpectedly**, e.g. due to deportation, or job losses in the context of e.g. economic recession or pandemic-related restrictions.

- **Labour migration policies** – including **Bilateral Labour Agreements** – therefore need to plan for return and reintegration, whatever the circumstances, and for all affected groups (e.g. people of different genders, or immigration status).

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Introduction to reintegration

What is reintegration?

No widely accepted definition – defined and understood differently by different actors

The terms (sustainable/successful) reintegration and sustainable return are often used interchangeably

- 'Sustainable return' emerged as a term in the 1980s

- But **'sustainable reintegration'** has become the preferred term in recent years

It is very important that governments and related stakeholders **define what they mean** by "sustainable" or "successful" reintegration in order to:

- Ensure **clarity in policy objectives**

- **Enable monitoring and evaluation** to assess whether and how policies to support sustainable reintegration fulfil their objectives

Definitions of sustainable reintegration

IOM's definition

This definition has been updated in line with research evidence and developments and is **commonly used to guide policy:**

*Reintegration can be considered sustainable when returnees have reached levels of **economic self-sufficiency**, **social stability** within their communities, and **psychosocial well-being** that allow them to cope with (re)migration drivers. Having achieved sustainable reintegration, returnees are able to make **further migration decisions a matter of choice**, rather than necessity (IOM, 2017).*

IOM (2017) *Towards an integrated approach to reintegration in the context of return*. Geneva: IOM

The United Nations Network on Migration (UNNM) has recently proposed a **more comprehensive and ambitious definition:**

*A process which enables individuals to secure and sustain the **political, economic, social and psychosocial conditions** needed to maintain **life, livelihood and dignity** in the country and community they return or are returned to, in **full respect of their civil, political economic, social and cultural rights**. This should include targeted measures that enable returning migrants to have access to justice, social protection, financial services, health care, education, family life, an adequate standard of living, decent work, and protection against discrimination, stigma, arbitrary detention and all forms of violence, and that allows returnees to consider that they are in an environment of personal safety, economic empowerment, inclusion and social cohesion upon return*

United Nations Network on Migration (2021) Ensuring Safe and Dignified Return and Sustainable Reintegration. Available at: https://migrationnetwork.un.org/thematic-working-group-5-return-and-reintegration.

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What does scientific knowledge tell us about reintegration? (I)

- Reintegration is shaped by **both individual and structural** factors
  - Individual, e.g. gender, education, ethnicity, age, skills
  - Structural, e.g. (un)employment levels, access to housing, healthcare, social protection and financial services; safety and security

- Reintegration is a **multi-dimensional** process – challenges faced can be **multiple and interacting**
  - For example, poor physical or mental health can make it much more difficult for a return migrant to reintegrate economically
  - Good economic reintegration can improve the return migrant's social relationships and psychosocial health (e.g. improved status within the community, improved relationships with family, improved self-confidence and optimism)

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What does scientific knowledge tell us about reintegration? (II)

- People who are **prepared and ready to return** are better able to reintegrate
  - This includes **psychological readiness** (e.g. they feel it is the right time; they are willing)
  - And preparedness in terms of **tangible and intangible resources**. E.g. they have maintained or developed social contacts/relationships, job-related skills, financial savings, a business plan, etc.

- The main barriers to reintegration are often the **same issues that motivated migration** in the first place
  - e.g., a lack of employment opportunities, access to public services, or social problems (e.g. discrimination)

- Migrants who were **more integrated** into their communities prior to migrating are **better able** to reintegrate upon their return
  - E.g. if they already had more education, more financial assets, more social support, etc.

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What does scientific knowledge tell us about reintegration? (III)

- Reintegration processes are highly **individual** and **fragile**

  - I.e. people have different experiences, and may be doing better in some dimensions than others

  - Progress made can easily be undone by **bad luck** (e.g. if livestock die) or **broader changes** (e.g. economic recession, pandemic restrictions)

- **Whether or not someone re-migrates** does not tell us whether they re-integrated successfully

  - E.g. someone could be poorly reintegrated, and therefore wanting to migrate again, but unable to (e.g. due to a lack of money, or because of physical disability)

  - On the other hand, someone might reintegrate well, but still (want to) re-migrate for an educational or career opportunity, or to join a loved one elsewhere

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Support for reintegration

The IOM's "Integrated approach to reintegration"(2017) (I)

Figure 3.1: Understanding a returnee's ecosystem

Macrosystem: Attitudes and culture of society.

Exosystem: Private sector, public sector, service providers.

Mesosystem: Civil society, community-based organizations, Neighbours.

Microsystem: Home, friends, family, peers.

Returnee
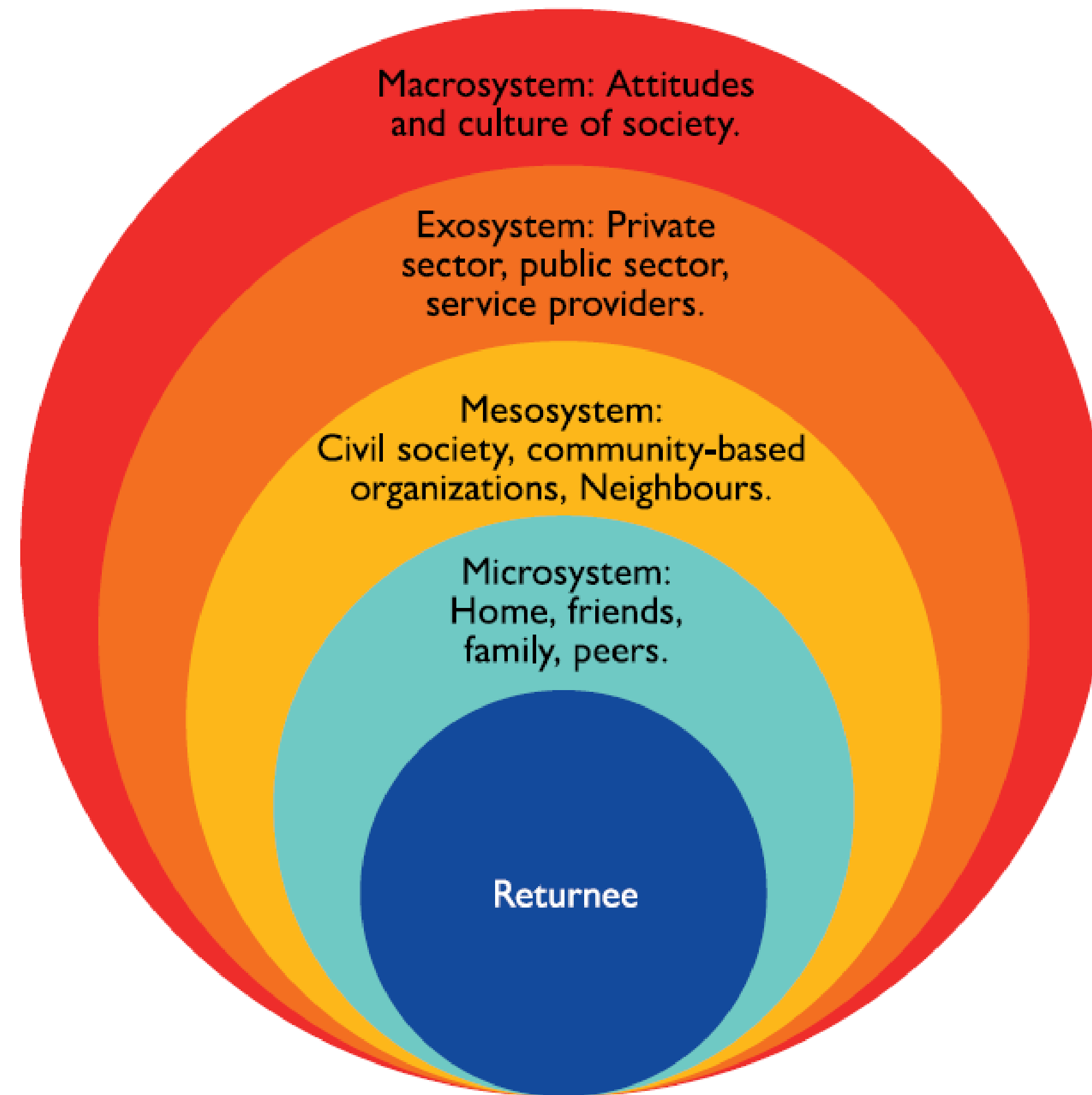
'The basic premise of this approach is that the **complex, multidimensional process of reintegration** requires a holistic and needs-based approach. Such an approach takes into consideration the various factors that can affect reintegration, including economic, social and psychosocial dimensions. It responds to **the needs of individual returnees and the communities to which they return** in a mutually beneficial way, while also addressing the structural factors at play.'

See: https://reintegrationhb.iom.int/module/integrated-approach-reintegration-0

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The IOM's "Integrated approach to reintegration"(2017) (II)

INTEGRATED APPROACH TO REINTEGRATION

ECONOMIC

SOCIAL

PSYCHOSOCIAL

MONITORING, EVALUATION AND LEARNING

INDIVIDUAL LEVEL
Ensure reintegration assistance takes into account specific needs of individual migrants, especially considering situations of vulnerability.
- Preparation
- Flexibility
- Follow-up

COMMUNITY LEVEL
Faster inclusion of communities to which migrants return in reintegration planning and strengthen their resilience.
- Social networks
- Joint initiatives
- Partnerships

STRUCTURAL LEVEL
Align reintegration programming with national and local development policies.
- Capacity-building
- Local ownership
- Essential services

Source: IOM. (2019). *Reintegration Handbook. Practical guidance on the design, implementation and monitoring of reintegration assistance.* International Organization for Migration (IOM).

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The IOM's individual-level assistance

Economic reintegration assistance	Social reintegration assistance	Psychosocial reintegration assistance
• Skills development and vocational training • Job placement • Business development support • Access to banking and microloans • Budgeting and financial counselling	• Access to housing and accommodation • Access to documentation • Access to social protection schemes • Access to education and training • Access to health and well-being • Access to food and water • Access to justice and rights	• Counselling for psychosocial well-being • Counselling with returnee and family • Devising a referral plan for mental and psychosocial support

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Source: IOM. (2019). pp. 33-96

The IOM's community-level assistance

Economic reintegration assistance	Social reintegration assistance	Psychosocial reintegration assistance
• Collective income-generating activities • Community-based local development and livelihood activities • Community financial support activities	• Increase access to social services (e.g. to housing) not only for individual returnees, but in specific communities of high return	• Community mobilization activities • Peer support mechanisms • Community networks

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The IOM's structural-level assistance

- Stakeholder engagement

- Capacity-building and strengthening

- Establishing coordination mechanisms (multi-stakeholder approach)

How can return and reintegration be supported through fair and ethical recruitment?

Pre-departure

- **Skills training** can develop skills also needed in the country of origin – to facilitate reintegration into the labour market upon return

- **Pre-departure orientation** can build skills such as:

  - Financial planning and (remittance) management, including for family members

  - Socio-emotional skills for relationship management – i.e. in order to strengthen and maintain family relationships during migration and upon return

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During migration

- **In-country informational and training initiatives** (e.g. provided through consulates/ labour attachés / CSOs) can continue to build relevant job, socio-emotional and financial skills

- **Facilitation of remittances**

  - I.e. through low-cost transfers

  - With their agreement, a portion of the migrant worker's salary could be automatically deposited by the employer in a bank account in the country of origin – banks may be interested to support such a scheme in order to attract new customers

- And of course! - Migration experiences which are **free from abuse and exploitation**, and which instead **allow migrant workers to achieve their goals** (e.g. financial savings, skill-development) will allow for more successful reintegration upon return

- Similarly, mass deportations/expulsions should be avoided as far as possible – but countries should also **prepare contingency plans for mass evacuations** in case of e.g. sudden conflict or disaster

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Post- migration (I)

- **Costs for return** are considered recruitment costs and therefore **should not be paid by the migrant worker**

    - E.g. costs for return travel and accommodation

- **Reintegration assistance** should target most urgent needs

    - At individual, community and structural levels;

    - In different dimensions, e.g. economic, social and psychosocial

    - And for **different groups** (e.g. in terms of gender, skills, ethnicity, occupational sector, geographic location)

    - Based on **comprehensive needs assessment**

    - And ongoing **monitoring, evaluation and feedback loops**

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Post- migration (II)

- Reintegration assistance **should not be seen to favour return migrants** over those who have not migrated

  - Assistance should target both return and non-migrants facing similar challenges, and/or the whole community

- Labour migration policies and agreements should allow for:

  - **Portability of social benefits**

  - Possibilities to **re-migrate legally and safely**

Good practice example: Phillipines

- The Philippines addresses the return and reintegration of migrant workers as a policy priority in its **legislative framework**
  - I.e. the 1995 Migrant Workers and Overseas Filipinos Act set out services for return and reintegration and defined the role of the Overseas Workers Welfare Administration (OWWA) in providing welfare and protection services to migrant workers, including for their reintegration upon return
  - A National Reintegration Programme aims "to maximize the gains of overseas employment, mitigate the social costs of migration and cushion the impact of forced repatriation due to unexpected events"

- A **National Reintegration Center**
  - Is run by the Department of Migrant Workers, as part of a multi-stakeholder collaboration
  - Provides key services including:
    - **Livelihood Development and Entrepreneurship Programmes** (including both technical and financial assistance)
    - **Skills Training and Educational Opportunities** (including training, scholarships and skills recognition)
    - **Counselling and Psychosocial Support Services** (both pre- and post-migration)
  - Support targets both the individual, and their **family** and community

Box 2
Selected interventions/projects of the NCRO

Livelihood Development Assistance Program
A livelihood grant intervention intended to bring about improved socio-economic well-being of undocumented OFWs.

Balik Pinay! Balik Hanapbuhay! (Special Program for Returning Women Migrant Workers)
A training-cum-production/employment intervention intended to bring about improved socio-economic well-being of women returning OFWs

Balik Pinas! Balik Hanapbuhay!
Package of livelihood support/assistance intended to provide immediate relief to returning member-OFWs (distressed/displaced) amounting to a maximum PHP20,000 as start-up or additional capital for a livelihood project.

Enterprise Development and Loan Program
A loan facility in partnership with the Land Bank of the Philippines and the Development Bank of the Philippines with business loans amounting to PHP100,000 up to a maximum of PHP2 million for individual borrowers and up to a maximum of PHP5 million for group borrowers.

Sa 'Pinas, Ikaw Ang Ma'am/Sir
The programme aims to gain back the Filipino workers overseas, particularly OFWs who have passed the Licensure Examination for Teachers and reverse out migration by enhancing their skills and providing them with the option to stay in the Philippines to work as public-school teachers.

Source: Martin, 2019.

Source: Wickramasekara, P. (2019) Effective return and reintegration of migrant workers with special focus on ASEAN Member States. ILO. Available at: https://migrantprotection.iom.int/en/resources/report/effective-return-and-reintegration-migrant-workers-special-focus-asean-member (pp.17-18)
See also: https://assistance.ph/national-reintegration-center-for-ofws-nrco/

Good practice example: Republic of Korea

The Republic of Korea established its **Happy Return Programme** for migrant workers in 2009, as part of its Employment Permit System (EPS) for low-skilled foreign nationals

- The Happy Return Programme **discourages over-staying**, and **promotes fair and ethical recruitment** by supporting the **employment or business start-up** of migrant temporary workers *returning from* Korea

- In preparation for their return, migrant workers can benefit from:

    - **Vocational training** – in a range of areas/sectors, not only that of the migrant's work in Korea

    - **Pre-return recruitment services** – i.e. support for finding jobs in countries of origin, including in Korean companies. This is done through job-matching, job-fairs, and information made available online through the EPS platform

- To encourage migrant workers to invest in developing their own skills (and thereby promote development in countries of origin), the scheme allows experienced migrant workers to **upgrade to a semi-skilled visa** upon passing a skills test

- See:

    - Centre for Global Development (2021). Migration Pathways: Employment Permit System (EPS). Available at: https://gsp.cgdev.org/wp-content/uploads/2021/07/CGD-Legal-Pathways-Database_EPS-1.pdf

    - ILO/IOM (2020). Promoting fair and ethical recruitment in a digital world: Lessons and policy options. Available at: https://www.iom.int/resources/promoting-fair-and-ethical-recruitment-digital-world-lessons-and-policy-options (p.15)

    - Wickramasekara, P. (2019) Effective return and reintegration of migrant workers with special focus on ASEAN Member States. ILO. Available at: https://migrantprotection.iom.int/en/resources/report/effective-return-and-reintegration-migrant-workers-special-focus-asean-member (pp.20-21)

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Further resources

Wickramasekara, P. (2019) Effective return and reintegration of migrant workers with special focus on ASEAN Member States. ILO. Available at:
https://migrantprotection.iom.int/en/resources/report/effective-return-and-reintegration-migrant-workers-special-focus-asean-member

IOM resources on reintegration, including:

- The IOM Reintegration Handbook Online Course: https://migrantprotection.iom.int/en/learning/e-courses/iom-reintegration-handbook-online-course

- And related publications: https://migrantprotection.iom.int/en/resources/publications?keywords%5B0%5D=661

Discussion questions

1. In what circumstances do migrant workers return to/from Vietnam?

   • I.e. how voluntarily? Alone or with their families? With skills or resources?

2. In Vietnam, what reintegration challenges do returned migrant workers face?

   • Do some people reintegrate better than others? Why? What causes these differences?

3. What reintegration support is available to returned migrant workers in Vietnam?

   • What are the strengths and weaknesses of reintegration assistance in Vietnam?

Thank you! Any questions?

SWOT Analysis

Dr. Talitha Dubow & Dr. Katrin Marchand
UNU-MERIT, Maastricht University

GIZ „Shaping Development-Oriented Migration"

Hybrid Training Vietnam
1 October, 2024

Group Work

- In groups, please discuss the **strengths, weaknesses, threats and opportunities** of the Vietnamese approach to raising awareness and preparing (potential) migrant workers for fair and ethical labour migration

- You can reflect on:

  - Vietnamese migrants working abroad and other nationals who come to work in Vietnam

  - The types of knowledge and skills migrant workers need over the course of the entire migration lifecycle (i.e. including return and reintegration)

  - Multi-stakeholder coordination and collaboration to raise awareness and prepare migrant workers effectively

- Further guidance is provided in the printed **handout**

Group discussion

- Decide which aspect(s) you want to focus on.

- Use the guiding questions provided on the handout to discuss in your groups.

STRENGTHS	WEAKNESSES
OPPORTUNITIES	THREATS

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Thank you! Any questions?