



International  
Labour  
Organization



# International Labour Standards & Good Practices in Recruitment

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Placing Workers in Europe: Fostering Collaboration  
among Employment Agencies in Asia & Europe  
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# Outline of Presentation

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# ILO and the Decent Work Agenda

**ILO:** specialized UN agency created with a Tripartite structure bringing together representatives of govts, employers & workers to address issues related to labour policy

**Decent Work Agenda:** aims to achieve decent work for all by promoting social dialogue, social protection & employment creation as well as respect for international labour standards, promoting opportunities for women & men to obtain decent & productive work in conditions of freedom, equity, security & dignity

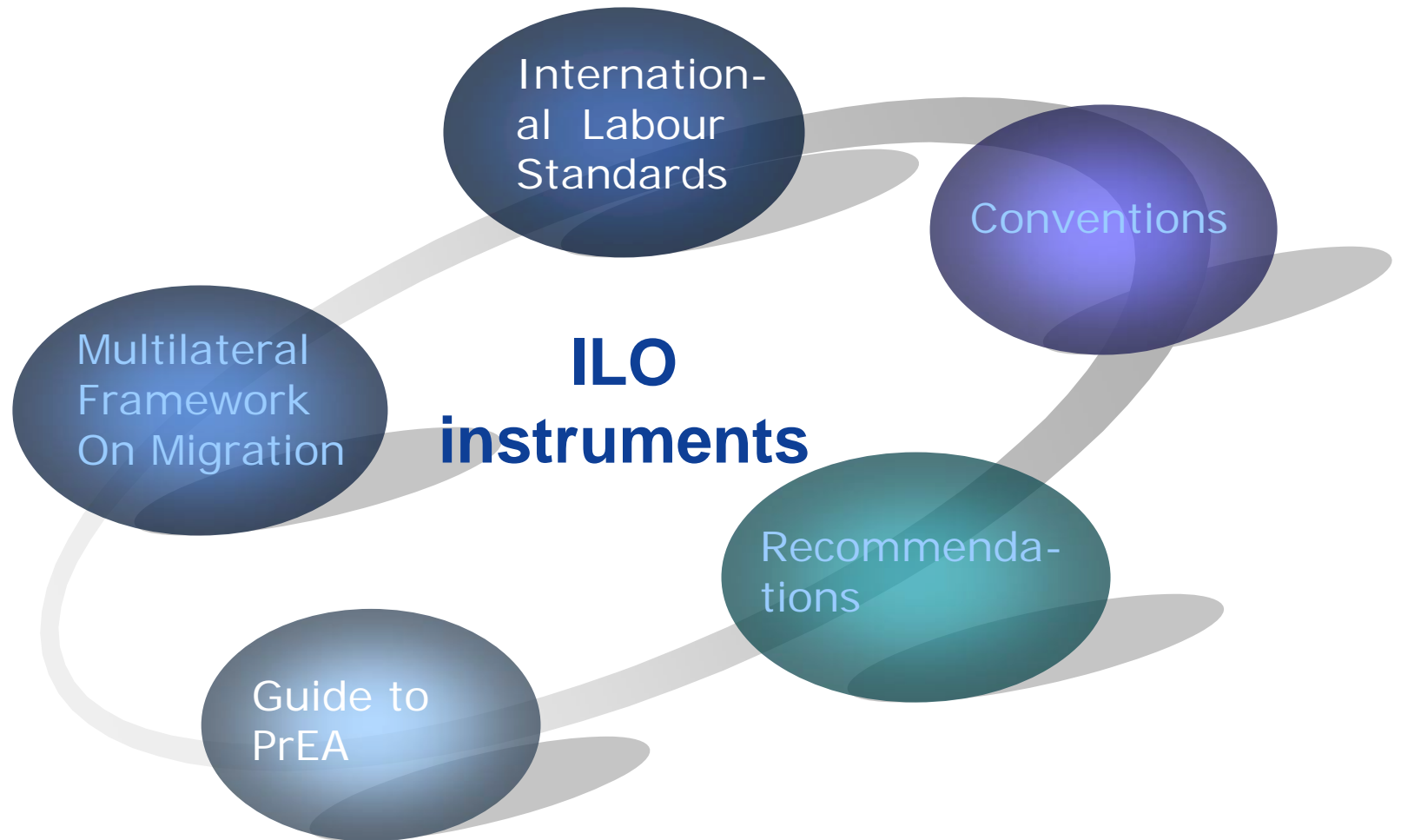


# ILO Instruments

- **International Labour Standards**
  - Conventions**
  - Recommendations**
- **Guide to Private Employment Agencies**
- **Multilateral Framework**



# ILO Instruments





# International Labour Standards

- Legal instruments drawn by ILO's constituents & setting our principles & rights at work
- Essential component in the international framework for ensuring that growth of the global economy provides benefits to all
- Comprehensive system of instruments on work and social policy backed by a supervisory system to address problems in their application at the national level
- Lays down the basic minimum social standards agreed by all players in the global economy



# Benefits of International Labour Standards

- Path to decent work: about the devt of people as human beings
- International legal framework for fair & stable globalization: make sure that economic growth & devt go along with the creation of decent work
- Level playing field: sets minimum standards
- Means of improving economic performance



# Benefits of International Labour Standards

- Safety net in times of economic crisis
- Strategy for reducing poverty
- Sum of international experience & knowledge



# International Labour Standards

## Conventions

- Legally binding international treaties that may be ratified by member states
- Lays down basic principles to be implemented by ratifying countries
- once adopted, member states are required under ILO Constitution to submit to their competent authority

(normally parliament) as consideration for ratification

- ratifying countries commit themselves to apply the convention in national law & practice & reporting on its application

## Recommendations

- Non-binding guidelines
- may supplement a convention by providing more details on how it could be applied
- May be autonomous & not linked to a Convention



# ILO Instruments

## Guide to Private Employment Agencies (PrEA) C.181 and R.188

- Provide guidance to national legislators in drafting laws in accordance to national labour standards
- Provides comprehensive overview of regulatory frameworks based on Convention No. 181 and Recommendation No. 188
- Good practices & country examples

## ILO Multilateral Framework on Labour Migration

- Non-binding principles & guidelines for a rights-based approach to labour migration
- derived from extensive research & compilation & review of labour migration practices in all regions of the world
- drawn from principles contained in relevant International instruments & regional policy guidelines



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Background

- Rapid growth of private employment agencies have been due to:
  - changing and flexible labour market
  - constraints in the operations of PES
  - use of other networks for placement
- Growing int'l trade & other aspects of globalization
- Accelerated devt of information & communication technologies



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Background

- Increase in temporary & part-time work
- Growing unemployment
- Growing recognition of PrEA and role in the functioning of labour markets:
  - Provide work to jobseekers
  - Enhance workers' employability
  - Can lead to permanent employment
  - Improve labour market fluidity
  - Work hand in hand with PES
  - Help disadvantaged groups enter the labour market



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

- Convention balances recognition of productive role played by PrEA in the delivery of specific labour market services with the need to ensure that basic rights of workers are upheld.
- Recognizes that PrEA can contribute to the functioning of labour market & sets gen. parameters for regulation, placement & employment of workers recruited by PrEA, in particular temporary work agencies (TWA)



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

- Marked impt change in relations bet public & private employment agencies as it moved away from traditional ILO stds largely recognizing public sector monopoly in provision of labour mkt services
- Preamble recognizes role of PrEA in a well functioning labour mkt & need to protect workers against abuses



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Recall provisions of ff Conventions

- Forced Labour
- Freedom of Association & Protection of the Right to Organize
- Rights to Organize & Collective Bargaining
- Discrimination Convention
- Employment Policy
- Minimum Age
- Recruitment & Placement in Migration for Employment
- Migrant Workers



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Definition of a PrEA

Any natural or legal person, independent of the public authorities, which provides one or more of the ff labour mkt services:

- (1) Matching offers of & applications for employment w/out private employment agency becoming a party to the employment
- (2) Services consisting of employing workers w/ a view to making them available to a 3rd party, who may be a natural or legal person (user enterprise)
- (3) other services relating to job seeking determined by the competent authority after consulting representative employers & workers orgs



## Coverage

*Article 2* Applies to all categories of workers and all branches of economic activity except SEAFARERS (the new Maritime Consolidated Convention ensures that seafarers have access to an efficient & well-regulated seafarer recruitment & placement system)



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## **Protection of Workers: *Articles 4,5,9 & 11***

Guarantees concern for fundamental rights at work such as:

- freedom of association
- right to collective bargaining
- equal opportunity & treatment
- banning of child labour



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Recommendation No. 188

Protection of workers: *Article 2*

“...adopt all necessary & appropriate measures to prevent & eliminate unethical practices by private employment agencies”



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Special protection of migrant workers: *Art 8*

“Members should seek adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies....include laws or regulations which provide for penalties including PrEA that engage in fraudulent practices & abuses”



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Recommendation 188

- Combat unfair advertising practices & misleading ads including ads for non-existent jobs and requires that agencies should not knowingly recruit workers for jobs involving unacceptable risks & hazards
- Contract of employment be in writing



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## **Cooperation between PES and PrEA: *Art 13***

Cooperation to be based on principle that public authorities retain final authority for formulating labour market policy & for utilizing & controlling use of public funds earmarked for the implementation of that policy



# ILO Convention No. 181/ Recom No.188 Private Employment Agencies (PrEA)

## Cooperation between PES and PrEA: *Art 13*

- Pooling of info & use of common terminology so as to improve transparency of labour mkt functioning
- Job vacancy exchange
- Launching of joint projects
- Concluding agreements regarding execution of certain activities e.g. projects for integration of long-term unemployed
- Training of staff
- Consulting regularly to improve professional practices



# Ratification of Convention No .181

- 20 countries have ratified
- Ratification: formal procedure where a state accepts the convention as a legally binding instrument
- Came into force in year 2000 (1yr after being ratified by 2 member states)
- Pace of ratifications appear reasonable
- Obligation of Member States to submit reports on their legislation & national practices



# Ratification of ILO Convention No. 181

- ***Committee of Experts on Application of Standards and Recommendations***  
(composed of high-level jurists of independent standing) established as body responsible for technical & legal supervision of application of international labour standards



# Ratification of Convention No .181

- **Comments by Committee:**
  - observations: made in cases of serious & persistent failure to comply with obligations
  - direct requests: sent directly to Gov'ts not included in report; deals with more technical issues or are questions addressed for the first time after a first report; addressed to employers and workers reps



# Ratification of ILO Convention No. 181

- Convention was developed to cover all private employment agencies & focus was on temporary work agencies
- Since establishing convention, issues surrounding operation of overseas placement agencies became prominent---are covered by multiple ILO standards relating to their operation: standards on migration (97, 143) forced labour (29) & private employment agencies(181)



# Ratification of ILO Convention No. 181

- Convention does not resolve issue of who is accountable for staff in the employment relationship---issue & scope of employment relationship; no standard in this area
- In Convention, government, in accordance with national law & practice has the responsibility to define the responsibilities between agencies and user enterprises



# Multilateral Framework on Labour Migration

Govts in both origin & destination countries shld give due Consideration to licensing & supervising recruitment & placement services of migrant workers in accordance With the PrEA Convention 1997 (No. 181)

Recruitment & placement services operate with standardized system of licensing

Respect migrant workers' fundamental principles & rights

Migrant workers receive understandable & enforceable employment contracts

That recruitment & placement does not involved unacceptable risks & hazards



# Multilateral Framework on Labour Migration

Govts in both origin & destination countries shld give due  
Consideration to licensing & supervising recruitment &  
placement services of migrant workers in accordance  
With the PrEA Convention 1997 (No. 181)

Working to implement legislation & policies containing enforcement  
mechanisms

Consider establishing a system of protection, such as insurance, bond

Providing fees or other charges that are not borne by migrant worker

Providing incentives for recruitment & placement services that meet  
criteria for good performance



# Guide to Private Employment Agencies: Regulation, Monitoring & Enforcement

## WHAT

- Provide guidance to national legislators in drafting laws in accordance to national labour standards
- Provides a comprehensive overview of regulatory frameworks based on ILO Convention No. 181 and ILO Recommendation No. 188



# Guide to Private Employment Agencies

## **AUDIENCE**

- National legislators
- Social partners
- Practitioners



## CONTENT OF GUIDE

- Overall context of legislation & institutions
- Legal requirements for establishing and operating PrEA
- Regulatory & enforcement responsibilities of governments
- Mechanisms for self-regulation
- Cooperation between PES & PrEA
- Annex: extracts of representative legislative acts from developed & developing countries



## RESPONSE TO GUIDE

- Great demand for the Guide
- Countries which started elaborating on legal frameworks: mostly developing countries
- Requests for technical assistance even before the Guide has been finalized
- Specific country requests: China, Ethiopia, Ghana, Jordan, Moldova, Russia, Ukraine, Zambia



## Definition of Private Employment Agencies

- Imperative that definition of private employment agency be included in the legislation as there can be different interpretations of the term
- ILO Convention defines 3 types of agencies but there can be many possible definitions
- May also be that certain types of private employment agencies are targeted for regulatory action



## Definition of Private Employment Agencies

### Country Example

Private employment agencies in **Japan** fall into 3 categories each with specific license provisions: (1) job matching services; (2) temporary work; and (3) advertisement services of vacancies

There are 2 types of temporary work businesses: (1) general temporary work business; and (2) specific temporary work business

## Prerequisites for Operation of a PrEA

Basic requisites for a PrEA to operate legitimately needs to be established; ff minimum requirements are suggested:

- Registration of business (with possible payment of registration fee)
- Registration with other govt business regulation & tax authorities as appropriate
- Agreement to comply w/all appropriate labour laws & equal opportunity laws (goes to the allocation of accountability for employment relationship)
- Agreement to report periodically agency activities
- Agreement not to collect fees from workseekers
- Agreement to maintain confidentiality of client & work seeker personal information



# Implementation of ILO Convention No. 181

- Intent to use currently existing legislation to protect workers wherever feasible
- Country examples
  - Sweden and Germany:** Legislation treats PrEA as any other business and employers and workers are covered under general labour legislation through collective labour agreements
  - Ethiopia:** Established the 1998 Private Employment Agency Proclamation (No.104) enacted in response to abuses of Ethiopian migrant workers, particularly domestic workers & victims of trafficking, requiring licensing of recruitment agencies



# Implementation of ILO Convention No. 181

## Payment of fees

- Recruitment agencies are increasingly involved in the issue of fee-charging & some recruiters have engaged in unfair & abusive labour practices

**Article 7: PrEA shall not charge directly or indirectly in whole or in part any fees or costs to workers**

**In consultation with employers & workers organizations, competent authority may authorize exceptions (same Article)**



# Implementation of ILO Convention No. 181

## Payment of fees

Country examples:

**Malaysia:** not more than 15% of initial month's salary

**Philippines:** Up to 1 month's salary exclusive of documentation costs. Documentation costs to be paid by workers shall include but not limited to expenses for the ff: (a) passport; (b) NBI/Police/Barangay clearance; (c) authentication; (d) Birth certificate; (e) Medicare; (f) Trade test, if necessary; (g) inoculation, when required by host country; (h) medical examination fees



# Implementation of ILO Convention No. 181

## Payment of fees

Country examples:

**Switzerland:** Up to 5% of annual salary to be paid when contract is finished

**U.S.A. (Arizona):** If jobseeker is sent out and fails to find employment, the employment agency shall refund any fee the jobseeker paid

**Zimbabwe:** No fee to be charged for registering with an employment agency, but up to a maximum of 5% of first month's salary for placement into a job



## **Additional Prerequisites for Operation**

Higher standards for operation of private employment agencies exist in some countries. Add'l prerequisites designed in reaction to some commonplace abuses:

- Demonstration of lawful behavior
- Demonstration of sound managerial capability
- Demonstration of financial resources
- Demonstration of professional competence



# Implementation of ILO Convention No. 181

## Additional Prerequisites for Operation

- **Singapore & Germany** have established detailed requisites in these areas, particularly demonstration of professional competency
- In case of overseas employment agencies, additional requirements very often stressed for demonstration of adequate financial resources
  - non-national should have his/her credentials authenticated
  - Documenting financial capability to support international operations to sustain possible claims for compensation by national workers or foreign employers or other business partners, to satisfy other legal requirements for cash-bond deposits, surety bonds or other financial gurantees



## Additional Prerequisites for Operation

**Germany:** license for job placement is issued when the ff requirements are satisfied:

- Applicant possesses required suitability for job placement (3 years of work in field of personnel mgt, job placement, personnel consultation, vocational qualification or university degree)
- Applicant does not have a criminal record
- Demonstrate sound financial circumstance
- Provide a business site which is solely used for business purposes



# Implementation of ILO Convention No. 181

## Additional Prerequisites for Operation

**Singapore** requirements are different:

- Operate agency on a full-time basis
- Have an appropriate agency premise
- Must be owner of the agency
- Must be 25 years old & above
- Must possess at least 5 GCE 'O' level of national skills qualification evaluation
- Must be a Singapore citizen or permanent resident
- Must attend & pass Certificate for Employment Agency course



# Implementation of ILO Convention No. 181

**Issues on the Fundamental conventions  
e.g. freedom of association, use of child  
labour, collective bargaining**

**Country examples**

**UK:** Conduct of Employment Agencies and  
Employment Business Regulations 2003

**Sweden and Germany:** PrEA & temporary workers  
are covered by collective labour agreements



# Implementation of ILO Convention No. 181

## Government regulatory responsibility

- Any legislation or regulation should clearly state government's authority to regulate in this area & identify the responsible Ministry or agency
- At a minimum, government's activities in relation to enforcement of the law or regulations should include:
  - administration of registration procedure & collection of registration fees
  - monitoring of agency activities (desk audit of information provided or field audits)
  - assessment of penalties for non-compliance with laws or regulations
  - administration of a complaint procedure for workers
  - information reporting to responsible authorities



# Implementation of ILO Convention No. 181

▪ **Most important point: laws and regulations established should be within the capacity of government to enforce thoroughly**

## Country Examples

**UK** has 8,200 private employment agencies; in administration of a complaint procedure: about 10,000 telephone complaint calls were received in 1998 alone & 300 formal investigations initiated

**Ireland** legislation aims to tighten current legislation of PrEA through stricter conditions, establishing new procedures such as a Code of Practice & complaints procedure



# Implementation of ILO Convention No. 181

## Registration & licensing of business

One of the options of regulating activities of PrEA is thru registration (registration w/a government authority) & licensing (previous authorization before commencing business)

### Country Examples

Models of public registers with licensed PrEA are found in **Singapore & the Philippines** where list of all currently licensed agencies are made available in the internet: to allow potential jobseekers to cross-check in advance. **Philippines** list includes PrEA which have been delisted, suspended, revoked, cancelled or banned



# Implementation of ILO Convention No. 181

- **Protection of migrant workers:**

Article 8 of C.181 special protection for migrant workers

Country example:

**Sri Lanka** has more developed regulatory framework for monitoring migration esp when migrant domestic workers are involved



# Implementation of ILO Convention No. 181

## Mechanisms of self-regulation

It is important to note the positive role played by professional codes of practice & other voluntary industry standards

### Examples

A number of practices exist in promoting industry self-regulation: **Canada's** PrEA have been organized into an Association of Canadian Search, Employment & Staffing Services (ACCESS) to ensure professional ethics, standards, & best practices in recruitment, employment & staffing services industry;



## Mechanisms of self-regulation

### Example

the **International Confederation of Private Employment Agencies (CIETT)** based in Belgium, an international institution composed of representatives of national industry organizations, as well as large multinational enterprises has developed its own Code of Practice which serves as a model for national organizations



# Implementation of ILO Convention No. 181

## ▪ Information sharing between PES & PrEA

In many respects, work of PES & PrEA can also be complementary

### Country Examples

In **France**, the ANPE (French PES) also provides jobseekers with the offers of temporary work agencies (TWA); **Lithuania's** PES & PrEA focuses on information exchange; **Poland** jointly organize jobfairs & exchange hard-to-fill vacancies; **Slovakia** publishes a list of PrEA on the website & on all PES offices



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**The end**  
**Thank you for your**  
**attention**