



Study of regulatory frameworks that promote and ensure responsible recruitment of foreign workers in South-East Asia

Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand and Vietnam

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Abbreviations

DOE	Department of Employment
DOLE	Department of Labour and Employment
ILO	International Labour Organization
KB	Kasambahay
MLVT	Ministry of Labour and Vocational Training
MOL	Ministry of Labour
NGO	Non-Governmental Organization
NLRC	National Labour Relations Commission
PES	Public Employment Service
PESO	Public Employment Service Office
POEA	Philippine Overseas Employment Administration
POLO	Philippine Overseas Labour Office
PrEAs	Private Employment Agencies (also known as Private Recruitment Agencies)
VAMAS	Vietnam Association of Manpower and Supply

Introduction

This research paper is a study of regulatory frameworks that promote and ensure responsible recruitment of foreign workers in the South-East Asian region, in particular Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand and Vietnam.

Employers report that many countries within this region have inadequate regulatory frameworks for private recruitment services, and/or do not enforce them. This research aims to provide the various stakeholders' perspective on criteria for efficient regulatory frameworks that would both support the recruitment industry, as well as protect the migrant workers. This research paper seeks to highlight the role of regulation on recruitment and address its adequacy for sustainable business development.

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The Business Advisory Group on Migration is housed at the International Organisation of Employers (IOE), the largest network of the private sector in the world, which vision is to create a sustainable economic environment around the world, in collaboration with its members and partners, that promotes free enterprise and is fair and beneficial to both business and society.

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Fragomen is recognized as the world's leading corporate immigration services provider and adviser. The firm employs more than 4,300 immigration professionals and support staff located in more than 55 offices in 30 countries across the Americas, Asia Pacific and EMEA. For more than 65 years, Fragomen has represented a broad range of companies, organizations and individuals, working in partnership with clients to facilitate the transfer of employees worldwide. Fragomen offers support in more than 170 countries. Our client engagement teams work closely with clients across a variety of industries and countries to support their priorities and tackle their challenges.

Methodology

This paper is a product of the research conducted by the authors through various source materials, whilst also incorporating valuable inputs gained from interviews with a selection of industry subject matter experts during the course of the third quarter of 2021. The scope of the agreed data points was determined with reference to existing material, such as the International Labour Organization (ILO) Convention 181.

Private Employment Agencies (PrEAs), also known as private recruitment agencies, provide a range of human resource services, including but not limited to private recruitment services, which include assistance in the matching and placement of individuals to employers in both the domestic and cross border recruitment context.

Where relevant, the authors have focused on the activities of PrEAs from a **recruitment-based perspective only**. This could begin from when the potential employee seeks out the agency's services up to the time that they commence work with the employer, and if cross border, may extend to the time of repatriation. However, employment activities of PrEAs which may include the hiring of staff to work in a client organisation are excluded from the scope of this paper.

The regulation of PrEAs in all its shapes, forms and services is complex and intertwined with general laws and regulations. While the team endeavoured to focus and identify PrEA specific material, the authors found that most countries covered the data points in a general way (for example in labour law), and there were several instances where the authors did not identify material precisely referring to, or regulating the activities of PrEAs. Where this was the case, this has been noted in sections where this material is discussed. In these circumstances, the authors referenced material that highlights the broader view that serves as a comparison signpost of the countries' regulatory landscapes.

The authors' research is mainly derived from statutes, regulations, information on government websites, research papers and other reputable commentaries. In relation to interviews, the authors spoke with a selection of industry experts, including individuals from PrEAs and industry associations.

In each of the sections of this paper, the authors have identified general trends and mentioned key highlights of the authors' research, where available. Tables might not be exhaustive, and where there are prohibited aspects under generally non-prohibited stances, the authors have taken the situation to be non-prohibited.

In the case of Laos, the authors experienced challenges gaining relevant source materials in English for the purposes of this research, and have therefore included information / references, to the limited extent available.

Throughout this paper, the authors have also included 'callout' boxes, using different colours as follows:

- A shared observation on a specific national market by the interviewees – **Orange**
- An industry initiative (such as an industry code of conduct, etc.) – **Blue**
- A regulation – **Purple**
- An assessment of the author(s) – **Green**

Chapter 1: International Standards

The ILO Convention No. 181, Private Employment Agencies Convention was established in 1997. It signalled the growing importance of PrEAs in the global labour market. An increasing number of employers of destination countries will often partner with PrEAs to hire migrant workers.

Labour migration is beneficial to all parties involved - migrant workers can earn higher incomes, sending countries are able to improve employment rates and the skill level of the local workforce, and receiving countries can fulfil their labour demand.¹ As migration rates in the Asia-Pacific region increase, international guidelines for regulating the recruitment of migrant workers is essential to prevent abusive labour practices.

The provisions of the ILO Convention No. 181 and the Private Employment Agencies Recommendation 1997 (No. 188) were drafted to address the regulation of PrEAs and protection of migrant workers. A brief discussion of the rules and standards laid out by the Convention and Recommendation is presented in this section.

The authors note that the term “private employment agencies” in the Convention is used to refer to a variety of private labour market services. As mentioned in the Methodology section above, for the purposes of this paper, the authors will be applying the Convention only to the recruitment practices of PrEAs – an examination of any employment based activities that these agencies may engage in falls outside the scope of this paper.

1.1 Regulation of private employment agencies

Under Article 3 of Convention No. 181, the legality of PrEAs is determined through consultation with representative labour organizations of the destination country.² The conditions governing the operation of PrEAs shall be determined according to a system of licensing and certification unless the conditions are regulated or determined by appropriate national law and practice.³

1.2 Protection of Workers – statutes of Convention No. 181

In relation to the protection of workers, Convention No. 181:

- Calls for prohibitive measures against discrimination in PrEAs to ensure equal opportunity for all job seekers.⁴ Recommendation 188 prescribes measures such as prohibiting PrEAs from publishing advertisements for roles that will result in discrimination.⁵ This provision should however, not deter PrEAs from assisting disadvantaged workers.⁶

¹ ILO, 2015, *Labour Market Trends Analysis and Labour Migration from South Asia to Gulf Cooperation Council Countries, India and Malaysia*.

² ILO Convention No. 181, Art 3 (1).

³ ILO Convention No. 181, Art 3 (2).

⁴ ILO Convention No. 181, Art 5 (1).

⁵ ILO Recommendation No. 188, Art 7.

⁶ ILO Convention No. 181, Art 5 (2).

- Calls for the protection and respect of workers' personal data in accordance with national law and practice. The processing of personal data by PrEAs should be limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.⁷ Recommendation 188 supplements this rule with the prohibition of recording unnecessary data of workers.⁸
- Requires that PrEAs shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.⁹ If in the interest of the workers concerned, and after consultation with the most representative labour organizations, exceptions may be applied to certain categories of workers, as well as specific types of services provided by PrEAs.¹⁰
- Requires member States to take measures to ensure child labour is not used or supplied by PrEAs.¹¹
- Provides that adequate machinery and procedures for investigation of complaints, alleged abuses and fraudulent practices concerning the activities of PrEAs should be set up.¹²
- Requires that adequate remedies, and penalties, shall be provided for in case of violations of the Convention.¹³
- Calls for the protection of migrant workers who are recruited or sent abroad by PrEAs.¹⁴ Measures suggested by Recommendation 188 include the provision of information to migrant workers and eliminating unethical practices by prohibiting the operation of PrEAs who have engaged in unethical practices.¹⁵

1.3 Cooperation between the public employment service and private employment agencies

Convention No. 181 calls for member States to periodically review conditions to promote cooperation between public employment services and PrEAs.¹⁶ PrEAs shall provide findings to the relevant authorities to create transparency, awareness of PrEAs structure(s), as well as for statistical purposes.¹⁷

Currently, none of the seven countries reviewed as part of this research have ratified Convention No. 181. This paper will use the Convention as a guideline for a more in-depth study on the current recruitment practices of PrEAs in the APAC region and assess to what extent – irrespective of the lack of ratifications – the respective frameworks in the region align with the principles in Convention No. 181.

⁷ ILO Convention No. 181, Art 6.

⁸ ILO Recommendation No. 188, Art 7.

⁹ ILO Convention No. 181, Art 7 (1).

¹⁰ ILO Convention No. 181, Art 7 (2).

¹¹ ILO Convention No. 181, Art 9.

¹² ILO Convention No. 181, Art 10.

¹³ ILO Convention No. 181, Art 14 (3).

¹⁴ ILO Convention No. 181, Art 8.

¹⁵ ILO Recommendation No. 188, Art 4.

¹⁶ ILO Convention No. 181, Art 13 (1).

¹⁷ ILO Convention No. 181, Art 13 (3).

Chapter 2: Regulation of Private Employment Agencies

2.1. National institutions for supervising private recruitment services

All of the countries the authors researched have national institutions that specialise in supervision of PrEAs. These measures range from 1) responsibility for skill development in the workplace (**Malaysia**), 2) protection of workers and promoting equitable welfare (**Philippines**) and 3) ensuring occupational safety in addition to hygiene standards (**Vietnam**).

Table 2.1 – National institutions

Country	National Institution
Cambodia	The Ministry of Labour and Vocational Training
Indonesia	Ministry of Manpower
Laos	Ministry of Labour and Social Welfare
Malaysia	Ministry of Human Resources
Philippines	Department of Labour and Employment
Thailand	Department of Employment
Vietnam	Ministry of Labour, War Invalids and Social Affairs

2.2. Regulation of Private Recruitment Services by Law

Table 2.2 – Regulations and implementing rules in place

Regulation	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
General regulation for companies including PrEAs	✓	✓	✓	✓	✓	✓	✓
Special laws that govern PrEAs	✓	✓		✓	✓	✓	✓
Implementing rules or guidelines	✓				✓		✓

All of the countries reviewed regulate PrEAs through domestic laws. While most countries have general laws that cover companies, including PrEAs (such as **Indonesia's** Law Number 13/2003 Concerning Manpower),¹⁸ which recognises and regulates the activities PrEAs, some countries issue special laws that govern PrEAs specifically, such as the Private Employment Agencies Act of **Malaysia** (issued in 1981)¹⁹, the Employment Arrangement and Job Seekers' Protection Act of **Thailand** (issued

¹⁸ <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>

¹⁹ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/11246/117929/F1685702427/MYS11246.pdf>

in 1985)²⁰ and the Rules and Regulations Governing Private Recruitment and Placement Agency for Local Employment of the **Philippines** (issued in 1997 and revised in 2016)²¹.

Countries such as **Cambodia** and **Vietnam** go further beyond the special laws by issuing supplemental implementing rules or guidelines that expound on laws regulating PrEAs. For example, in **Cambodia**, the regulation extends beyond Sub-decree 190 on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies, where the Association of Cambodian Recruitment Agencies (ACRA) and the Manpower Association of Cambodia (MAC) issued the Code of Conduct which serves as a best practices guideline for compliance with the law.²² In **Vietnam**, a supplemental Decree²³ elaborates on the details of implementation for Clause 3, Article 37 and Article 39 of the Law on Employment by providing details on the conditions for licensing PrEAs, their responsibilities and the circumstances in which a license can be revoked.

Code of Conduct of Cambodia

In **Cambodia**, the purpose of the Code of Conduct is to support labour inspectors so that they may perform their work in a professional manner to ensure efficiency, effectiveness, transparency and gain trust from the public. The Code of Conduct outlines general principles that consist of integrity, independence, impartiality, guidelines for behaviour and communication, among other things.

2.3. Licensing or Certifications for private recruitment services

Table 2.3 – Licensing requirements for PrEAs

Regulation	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
License Required	✓	✓	✓	✓	✓	✓	✓
Specific Licenses Required	✓	✓		✓	✓	✓	✓
Rating on Application Requirements ²⁴	Neutral	Neutral	Neutral	Difficult	Difficult	Difficult	Neutral

All of the countries reviewed have nuanced regulations in place that seek to promote transparency among PrEAs. Most of these countries require licensing, registration or other fixed requirements to become a PrEA, as is the case with **Malaysia**, **Philippines** and **Thailand** where eligibility processes are more stringent and require intensive review.

²⁰ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/37408/91031/F1978071002/THA37408.pdf>

²¹ <https://www.dole.gov.ph/news/do-216-20-rules-and-regulations-governing-recruitment-and-placement-of-industry-workers-by-private-employment-agencies-for-local-employment/>

²² https://www.ilo.org/asia/events/WCMS_735805/lang--en/index.htm

²³ Decree 23/2021 of Vietnam.

²⁴ Rating on a scale from Easy, Neutral to Difficult based on factors such as number of steps, requirements, types of licenses, etc.

Multiple License Types

In the **Philippines**, the license classes are divided into two: land-based and sea-based licenses.

The holder of one type of license is not allowed to recruit in the other category. Recently, licenses are becoming more difficult to obtain. Whilst the process previously only required the submission of documents and information, the process now includes a series of panel interviews involving the incorporators where topics such as experience running a recruitment agency and plans for the welfare of workers are discussed.

In **Malaysia**, there are three separate license categories depending on the purpose of recruitment: 1) License A – Job placement for a job seeker within Malaysia; 2) License B – Job placement for job seekers within and outside Malaysia and domestic servants within Malaysia; and 3) License C – Job placement for a job seeker within and outside Malaysia, and non-citizen employees within Malaysia.

Documentation for PrEAs licenses can be voluminous as well, for countries such as the **Philippines** and requires the PrEAs to file a written application, together with the prescribed requirements.²⁵

In **Cambodia**, an unlicensed PrEA can be shut down²⁶ by the MLVT where it continues to operate without obtaining the proper license. The license to perform recruitment services is obtained by providing documentary requirements prescribed by the MLVT, after which the company is included in a list of PrEAs published by the MLVT.

2.4 Extent of regulation of types of workers and specific sectors

All countries have general regulations for both PrEAs and workers who are part of their operations.

There are common sectors and categories of recruited workers and occupations that are recognised by countries such as **Cambodia, Indonesia, Philippines** and **Vietnam** (such as children, women, disabled and migrant workers), while other countries such as **Malaysia, Laos** and **Thailand** do not indicate any specific sectors or groups.

Table 2.4 – Regulation of recruitment of workers and specific sectors

Regulation	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
General regulation of types of workers	✓	✓	✓	✓	✓	✓	✓
Regulation of specific categories of workers	✓	✓			✓		✓

²⁵ https://www.poea.gov.ph/agency/files/Licensing_2016_POEA%20Rules_Landbased.htm

²⁶ <https://www2.staffingindustry.com/row/Editorial/Daily-News/Cambodia-Ministry-shuts-down-unlicensed-recruitment-agency-The-Phnom-Penh-Post-45772>

In 2011, **Cambodia** placed a ban on sending domestic workers into Malaysia and in the fishing industry. The ban put on the fishing industry has since been lifted, however domestic workers still cannot be sent to Malaysia.

In **the Philippines**, separate guidelines exist for industry workers and domestic workers – Kasambahay (KB). Most guidelines relate to: registration requirements, obtaining authority to recruit, branch office operations, complaint procedures, monitoring procedures and offences. For KBs, PrEAs have the additional stated responsibilities of offering pre-orientation and ongoing monitoring/assistance to the KBs. PrEAs are also required to assume joint and several liability with the employer for payment of wages and other benefits. In relation to fees and charges, there is an additional clause that states that cost of recruitment and placement cannot be charged to the worker. Detailed requirements apply to the placement procedures for provincial recruits for domestic workers that include: employers are required to submit a police clearance, employment contracts must be based on the standard employment contract, and the employer must keep family members aware of the worker's working conditions and whereabouts.

In **Thailand**, the regulations do not distinguish between the types of workers.

Chapter 3: Protection of Workers

3.1. Measures to ensure the protection of workers by PrEAs

Table 3.1 – Measures in place to protect workers

Measures	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
General law prescribing PrEAs to protect workers	✓	✓		✓	✓	✓	✓
Provides law requiring accurate information about job description	✓				✓	✓	✓
Provides law to protect data for collection from workers	✓				✓		✓

In **Cambodia**, PrEAs are directed by the Code of Conduct to ensure that advertisements for their services realistically reflect the job opportunities, timeframes for deployment and costs related to migration. Furthermore, PrEAs must ensure all personal data they collect, receive, use, transfer or store is treated as strictly confidential and not communicated to any third party without the prior informed consent of the migrant worker or workers' representative, unless required by law.

In **Thailand**, PrEAs are required to deposit financial security in the form of physical currency (cash or government bonds) or a letter of guarantee from a bank associated with the government.²⁷ Any infringement on workers' rights will be paid from the deposit, which is required to be replenished by the PrEAs once used.

²⁷ Employment and Job-Seeker Protection Act, Chapter 3, Section 31 (7).

Abuse of Rights

In the **Philippines**, PrEAs are responsible for offering pre-orientation materials as well as ongoing supervision and assistance for the KBs they have recruited. PrEAs are also jointly and severally liable with the employer for payment of wages and other employment-based benefits. The Philippines is on the other side of the regulatory spectrum, wherein labour laws are directed heavily toward the workers' rights.

During the course of an interview, it was pointed out that this can lead to possible situations where workers can abuse the law to the detriment of PrEAs for their personal gain. For example, workers are terminated due to a workplace violation (such as stealing, fraud, using false certificates etc. which are felonies). This does not deter them from filing a complaint for illegal termination and claiming payment for the rest of their contract term. Since PrEAs are jointly and severally liable with the employer, PrEAs may be required to answer the complaint and possibly pay the remainder of the contract. At the very least, PrEAs will be required to allocate resources in legal and administrative proceedings to remedy the alleged fault against the worker.

3.2. Measures to ensure worker treatment without discrimination by PrEAs

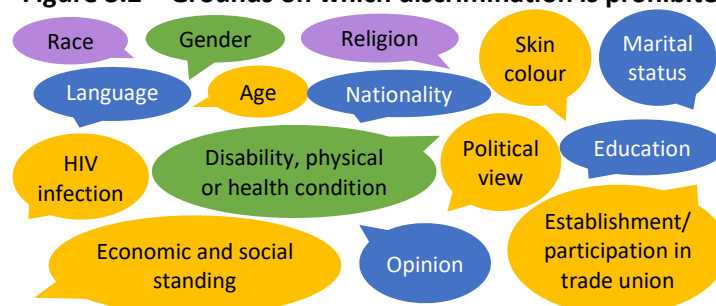
Most surveyed countries broadly cover discrimination in their constitutions, labour laws or employment legislation. **Cambodia** has specific Acts prohibiting discrimination on the grounds of disability and HIV status²⁸, while **Thailand** has a Gender Equality Act²⁹. **Vietnam** was the only country that specifically outlined the topic of discrimination by PrEAs.³⁰

Table 3.2 – Coverage of measures in local regulations regarding discrimination

Coverage	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Broadly	✓	✓	✓	✓	✓	✓	✓
PrEA-specific							✓

As to what might constitute discrimination, **Cambodia**³¹, **Thailand**³² and **Vietnam**³³ have a more extensive list of grounds. See Figure 3.2 for a combined summary of these factors across all seven countries. Race and religion are the two most common factors.

Figure 3.2 – Grounds on which discrimination is prohibited



The **Philippines** highlighted scenarios based on gender and

Blue – 1 country, Orange – 2 countries, Green – 3 countries, Purple – 4 countries

²⁸ ILO, 2012, *Equality and non-discrimination at work in Cambodia: Manual*.

²⁹ Gender Equality Act, B.E. 2558 (2015).

³⁰ Laws on Employment No. 38/2013/QH13, art. 4, 9.

³¹ ILO, 2012, *Equality and non-discrimination at work in Cambodia: Manual*.

³² Constitution of the Kingdom of Thailand B.E. 2560 (2017), s 27.

³³ Labor Code No. 45/2019/QH14, art. 3, 5.

marital status, stating it is inherently unlawful for an employer to require marriage abstinence for female employees.³⁴

Besides the grounds on which discrimination can occur, most countries expressed this from an equality perspective as well. **Indonesia**³⁵ and **Vietnam**³⁶ communicated this in terms of equal opportunity and treatment. For the **Philippines**, both male and female employees are entitled to equal compensation, and equitable access to promotions and training opportunities.³⁷

Practice in Cambodia and Philippines

In **Cambodia**, it was noted in an interview that the law providing measures to prevent discrimination at the workplace is quite limited as it is hard to prevent, and the measures have generally been not effective in preventing such discrimination. In the **Philippines**, it was noted that the areas of law which mention discrimination only apply locally (as opposed to internationally) because that would depend on the requirements of the overseas employer, who may dictate its own qualifications and experience requirements.

3.3. Measures to prohibit fees and costs being imposed on workers recruited by PrEAs

In this section, where available, the authors have focused on the PrEA-specific measures that exist in relation to the recovery of costs from recruited workers; this applies to **Malaysia**, **Philippines**, **Thailand** and **Vietnam**. Where such measures are unavailable, the paper will turn to more general sources. Notably, **Indonesia** has been the most direct in its stance as under the Law on the Protection of Migrant Workers (Law 18/2017), charging migrant workers for recruitment services is prohibited.³⁸

Table 3.3 – Coverage of measures in local regulations with regards to fees and costs

Coverage	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Broadly							
PrEA-specific							

* Red – Prohibited, Green – Not Prohibited

Firstly, this section covers the types of fees and costs chargeable; secondly, general prohibitions, and finally, any country specific prohibitions.

In the seven countries examined, the passing on of fees and costs to the worker are not absolutely prohibited. Any prohibitions are in the form of restrictions as to what can be charged, and if this deviates from the parameters that are set out in the statute.

³⁴ Republic of the Philippines Department of Labor and Employment, Bureau of Working Conditions.

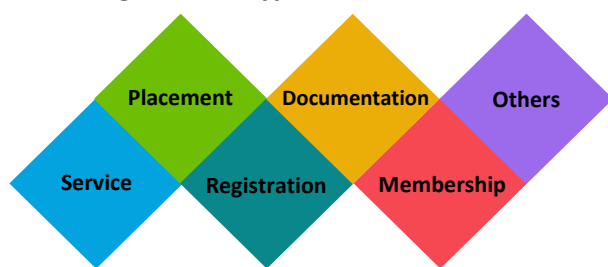
³⁵ Law No. 13/2003, art. 5, 6.

³⁶ Laws on Employment No. 38/2013/QH13, art. 4.

³⁷ Republic of the Philippines Department of Labor and Employment, Bureau of Working Conditions.

³⁸ ILO, 2020, *Study on the recruitment and placement of migrant fishers from Indonesia*.

Figure 3.3 – Types of fees and costs



Three of the seven countries allow for the charging of service fees to workers and/or employers.

Vietnam defined service fee as a form of compensation for cost, market, research negotiation, signing of labour supply agreement and management of workers while they are working abroad.³⁹ **Thailand**⁴⁰ and **Vietnam**⁴¹ allow for such fees to be charged to the

jobseeker/worker, whilst in **Philippines**, these fees are instead charged to principals/employers⁴².

Placement fees are allowed in **Malaysia** (depending on type of jobseeker, no more than 25% to 100% of first month's wages)⁴³ and **Philippines** (equivalent to one month basic salary)⁴⁴. Registration fees in Malaysia can be RM 50 and below.⁴⁵ Philippines have a variety of fees, including documentation and membership fees with Philhealth, Pag-Ibig and the Social Security System.⁴⁶ Training, testing, and medical examinations fees can be covered by the worker.

In terms of specific types of prohibited fees that PrEAs cannot recover, **Vietnam** does not permit PrEAs to charge workers recruitment and broker fees.⁴⁷ **Philippines**⁴⁸ and **Vietnam**⁴⁹ also prohibit charging workers other fees that are not otherwise prescribed in legislation.

Other forms of restrictions could be in terms of the maximum amount chargeable. In this regard, **Malaysia**⁵⁰, **Thailand**⁵¹ and **Vietnam**⁵² impose a ceiling on fees to be no greater than specified in the Act or prescribed by the Minister. For example, in **Vietnam**, service fees collected from workers by service enterprises must not exceed the top limit of one month's salary of workers and shall be collected once in every twelve months of working.⁵³ In the case of **Cambodia**, although at the time of developing the eight prakas (i.e., ministry-level decrees), there were discussions about whether to specify the costs permitted to be charged to migrant workers and "ceiling fees" that recruitment agencies are allowed to charge, such rules were ultimately not adopted.⁵⁴

³⁹ Law No. 69/2020/QH14, art. 23.

⁴⁰ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 26, 27, 38, 46.

⁴¹ Law No. 69/2020/QH14, art. 23.

⁴² Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 55.

⁴³ Private Employment Agencies Act 1981, s 14B, First Schedule.

⁴⁴ Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 51.

⁴⁵ Private Employment Agencies Act 1981, First Schedule.

⁴⁶ Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 50.

⁴⁷ Law No. 72/2006/QH11, art. 27; Law No. 69/2020/QH14, art. 7.

⁴⁸ Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 54.

⁴⁹ Law No. 69/2020/QH14, art. 7.

⁵⁰ Private Employment Agencies Act 1981, s 28.

⁵¹ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 26.

⁵² Law No. 72/2006/QH11, art. 21; Law No. 69/2020/QH14, art. 23.

⁵³ Law No. 69/2020/QH14, art. 23.

⁵⁴ ILO, 2020, *Recruitment fees and related costs: What migrant workers from Cambodia, the Lao People's Democratic Republic, and Myanmar pay to work in Thailand*.

Overall, **Vietnam** has more in-depth specifications in the law regarding fees and their amounts. For example, fees need to be agreed upon by both the workers and service enterprises,⁵⁵ and whether it is a one-off collection of service charges before the workers leave Vietnam or multiple collections during the time the workers work overseas.⁵⁶ Additionally, the Vietnam Association of Manpower and Supply (VAMAS) Code of Conduct notes there should be full and clear disclosure of information relating to fees, including the collected amounts not exceeding the actual amount of the costs incurred, and that recruitment agencies must not accept any recruitment fee from workers as an inducement to recruit them for a job.⁵⁷ **Thailand** provides certain conditions regarding receiving service charges in advance, namely that domestic employment arrangement licensees are prohibited from demanding or receiving service charges or expenses before the employer accepts the jobseeker to work and makes the first wage payment to the employee. Additionally, overseas employment arrangement licensees cannot receive fees more than thirty days in advance of the employee's departure date.⁵⁸

Fee Structure in Cambodia

In **Cambodia**, it was noted in an interview that there are ongoing negotiations for the Ministry of Labour to adopt a standard fee structure, whereas currently, different agencies have their own fee structure, causing some variance. However, due to COVID-19, the focus has been redirected to supporting migrant workers in Thailand. When a standard fee structure is finalised and approved by the government office, agencies will be required to comply accordingly.

3.4. Measures to prohibit child labour through PrEAs during the recruitment phase

Most countries broadly possess regulations relating to child labour, however, these were not specific to PrEAs. This is nevertheless an important consideration with cross-border recruitment, as agencies should also abide by the broad regulations of the receiving country. For the countries where the authors identified PrEA-specific measures, child labour was generally prohibited. It is important to note that these countries may vary in their definition of 'child', 'minor', and 'young person'. For example, in **Malaysia**, the law distinguishes between the type of work which a 'child' (meaning an individual under the age of 14), and a 'young person' (meaning an individual under the age of 16,) can engage in.⁵⁹ Additionally, in **Thailand**, it might depend on when a person becomes 'sui juris', or of age.⁶⁰

Table 3.4 – Coverage of measures in local regulations regarding child labour

Coverage	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Broadly							
PrEA-specific							

* Red – Prohibited, Green – Not Prohibited

⁵⁵ Law No. 69/2020/QH14, art. 23.

⁵⁶ Law No. 72/2006/QH11, art. 21.

⁵⁷ Vietnam Association of Manpower Supply, 2018, *Code of Conduct: Applied to Vietnamese agencies sending workers for overseas employment*.

⁵⁸ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 27, 38.

⁵⁹ Children and Young Persons (Employment) Act 1966, s 1A.

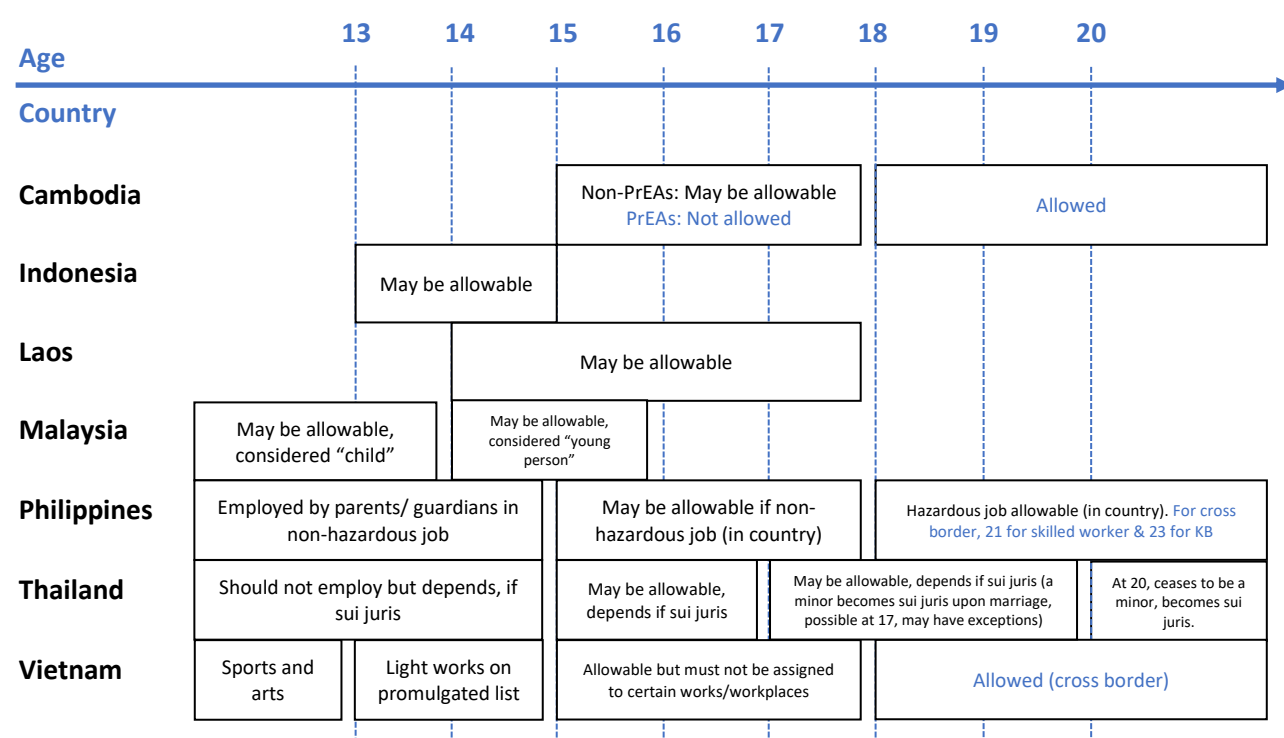
⁶⁰ Civil and Commercial Code of Thailand, B.E. 2468, s 19, 20, 23, 24, 27, 1448.

Generally, child labour is not absolutely prohibited, though some countries govern or prohibit work for those under the age of 18. Most countries allow younger workers to work, especially if the work itself is conducted in the country of origin as opposed to overseas. These jobs will usually be for non-hazardous work, which is light in nature, and will not negatively impact on body growth, mental or social health, or education.⁶¹ If children are allowed to work, there are typically certain restrictions, such as in **Malaysia**, where the work week can be no more than six out of seven consecutive days, cannot be undertaken between the hours of 20:00 – 07:00 hours, or without a period of rest of at least thirty minutes after three consecutive hours of work.⁶²

However, in the case of cross-border, workers are generally required to be at least 18 years of age. In the case of **Philippines**, male and female skilled workers or professionals can be sent abroad for work if they are at least 21 years of age. For KB, they must be at least 23 years of age.

Please refer to the summary chart below, where the authors identified age brackets that are either 1) allowable due to certain concessions, or 2) prohibited by law. Note this table is not exhaustive.

Graph 3.4 – Countries’ child labour landscape by age



*Note: if the box for a country does not touch the dotted line for a particular age, this means that the relevant age bracket ends at 'less than' that age

**PrEA specific information is denoted in blue (Cambodia/Philippines – information derived from interviews, Vietnam – from VAMAS Code of Conduct)

⁶¹ Indonesia Law No. 13/2003, art. 69; Republic of the Philippines Department of Labor and Employment, Bureau of Working Conditions; Vietnam Labour Code, 2012, art 162, 164.

⁶² Children and Young Persons (Employment) Act 1966, s 4, 5.

3.5. Measures to ensure supervision by labour inspectorate and information required for government reporting

Most countries have delegated their labour inspectorate to supervise the recruitment activities of PrEAs. There is a difference in the kind of supervision that is in place in each country. In **Cambodia** and **Philippines**, direct supervision is carried out by the labour inspectorate through regular onsite inspections. Unannounced inspections can be triggered by complaints and other undisclosed reasons. General supervision occurs in **Indonesia**⁶³, **Malaysia**⁶⁴, **Thailand**⁶⁵ and **Vietnam**⁶⁶, where the officers of the manpower department are given the powers of enforcement, inspection, and investigation. However, on-site inspections are not prescribed in legislation.

Ranking system in Vietnam and Cambodia

The **Vietnam** Association of Manpower and Supply (VAMAS) has established an annual ranking program for recruitment agencies in Vietnam.¹ The program consists of five stages: self-assessment, management interviews, document review, migrant interview and the presentation of rankings. The scores given to each agency depend on the agency's compliance with the 12 principles in the VAMAS Code of Conduct. A five-star ranking is given to agencies with a score of 93 and above, while agencies with a score of 66 and under will receive only one star. The VAMAS will also compile a list of recommendations for agencies to improve on before the next round of review. Agencies with 5 stars for five consecutive years will be awarded 6 stars. The authors were informed during interviews that Cambodia is in the process of setting up a similar ranking program to encourage compliance with the Code of Conduct for Private Recruitment Agencies.

In six out of seven countries, the government has established requirements for PrEAs to submit reports to the relevant government offices at fixed intervals. **Cambodia** has the most stringent reporting requirement, which requires PrEAs to submit reports on a monthly, quarterly, bi-annual, and annual basis.⁶⁷ **Thailand**⁶⁸ requires a monthly submission, while **Indonesia**⁶⁹ and **Philippines**⁷⁰ require a quarterly report. **Malaysia** does not have a requirement for fixed interval reporting but PrEAs are required to document their recruiting activities and submit this information when the authorities request it.⁷¹ The reporting regulations in **Laos** were unable to be confirmed at the time this research was conducted.

⁶³ Law No. 13/2003 art 182.

⁶⁴ Private Employment Agencies Act 1981, s 21.

⁶⁵ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 6.

⁶⁶ Law No. 69/2020/QH14, art. 16, 72.

⁶⁷ Praka No. 047/13 art. 5.

⁶⁸ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 25.

⁶⁹ BNP2TKI 9/2016 on Guidelines for implementing a Public Service Unit at the National Agency for the Placement and Protection of Indonesian Workers.

⁷⁰ Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 209.

⁷¹ Private Employment Agencies Act 1981, s 19.

Table 3.5 – Different kind of information required for government reporting

Country	Periodic number of recruited workers assigned	Information on length of assignment	Information on the wage of recruited workers	Information on the sectors to which recruited workers are assigned	Other
Cambodia	✓	✓	✓	✓	✓
Indonesia	✓	✓	✓	✓	
Laos	<i>Unable to be determined</i>				
Malaysia	✓	✓	✓	✓	✓
Philippines	✓	✓	✓	✓	
Thailand	✓	✓	✓	✓	✓
Vietnam	✓	✓	✓	✓	

The reporting requirements include matters such as the number of workers deployed, the length of the assignment, the migrant workers' wage, and the sector in which the migrant worker is working. Many countries have also requested information on specific areas. For example, **Cambodia** requires PrEAs to provide records of the training conducted on pre-departure orientation.⁷² **Malaysia** explicitly requires PrEAs to keep a record of all fees collected.⁷³ **Thailand** requires PrEAs to report all recruited workers who have failed to work abroad under the recruitment contract.⁷⁴

Generally, the required information is used by the government for statistical and monitoring purposes. The governments review the information submitted by PrEAs to ensure they comply with the organization and operation regulations set by the relevant authorities

3.6. Machinery and procedures to investigate complaints, abuses etc. related to the activities of PrEAs

In this section, the authors will explore three key areas of law and regulation affecting PrEAs: complaint mechanisms, investigative powers, and governmental action upon discovering abuse and breaches related to PrEA-based activities.

Table 3.6 – Mechanisms and procedures available

Coverage	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Complaint mechanism	✓	✓	<i>Unable to be determined</i>	✓	✓	✓	✓
Investigative powers	✓	✓		✓	✓	✓	✓
Action by government/penalties toward agency	✓	✓		✓	✓	✓	✓

⁷² Praka No. 047/13 art. 5.

⁷³ Private Employment Agencies Act 1981, s 19.

⁷⁴ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 25.

Most countries have some form of complaint-filing system in place. **Thailand** and **Philippines** appear to have a more thorough process than others that the authors reviewed. In Thailand, the government has established an official complaint centre and a counselling and troubleshooting guideline manual, which outlines the workflow and practice points for an officer to provide counselling, advice and guidance about labour matters.⁷⁵ For **Philippines**, there is clear division on where complaints (depending on type) should go to, e.g. Department of Labour and Employment (DOLE) for administrative cases, National Labour Relations Commission (NLRC) for wage-related cases. Victims can also file a complaint with the POLO in the host country. If an employee sues a recruitment agency which is found to be unlicensed, the case will be handled by the NLRC. Processes are further mapped out in Republic Act No. 10002.

Similarly, most countries confer powers of enforcement, inspection and investigation on certain personnel.⁷⁶ The statutes usually allow for report examinations, asking for information and evidence from people or statutory bodies in connection with crimes or questioning the alleged offenders themselves, and confiscating materials or evidence.⁷⁷

Inspections in Cambodia and Philippines

For **Cambodia**, an interviewee observed that an ordinary government inspection typically occurs approximately twice a year. A special inspection can happen any time without notice. Usually inspectors will have a checklist, and the labour inspectorate will encourage non-compliant recruitment agencies to comply, and seek to educate them.

In the **Philippines**, PrEAs are supervised by Philippines Overseas Employment Administration (POEA). There is a division in POEA where inspectors will go to offices for a spot check inspection, either routinely or if complaints are made. Inspectors can inspect all records, including financial and deployment documents.

Action by government in the form of penalties toward the agency is also common in most countries. Penalties typically range from written warnings, suspension or revocation of licenses, fines or imprisonment.⁷⁸ There can also be disciplinary actions, such as in **Vietnam**, which involve suspending or terminating the performance of labour supply contracts.⁷⁹

The authors were not able to find any information on the abovementioned data point for **Laos**.

⁷⁵ <https://www.mol.go.th/wp-content/uploads/sites/2/2021/03/คู่มือการรับเรื่องร้องทุกข์-ปี-2564.pdf>

⁷⁶ Private Employment Agencies Act 1981, s 21; Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 67; Decree 23/2021/ND-CP, Chapter IV.

⁷⁷ Law No. 13/2003, art. 182.

⁷⁸ Sub-decree 190 on The Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies, art. 39; Private Employment Agencies Act 1981, s 28; Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, s 143; Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 69-71, Chapter VII; Law No. 72/2006/QH11, art. 74, 75; Law No. 69/2020/QH14, art. 16; Decree 28/2020/ND-CP, art. 6.

⁷⁹ Law No. 72/2006/QH11, art. 75.

3.7. Availability of remedies for recruited workers

Solutions for recruited workers typically involve financial reimbursement to the worker, awarding compensation, or assisting in repatriating the jobseeker to their home country. This can happen when the jobseeker does not have employment security or receives a lower wage/position.⁸⁰ Notably, **Vietnam**'s legislation also covers principles for conflict resolution, which highlights that conflicts should be resolved through contract amendments signed by both parties.⁸¹

Table 3.7 – Availability of Remedies

Coverage	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Remedy for recruited workers	✓				✓	✓	✓

Practice in Cambodia and Thailand

In **Cambodia**, it was noted in an interview that recruitment agencies are required to deposit USD100,000 as a guarantee to be used to compensate workers in the event the recruitment agency cannot pay compensation that may be ordered. In addition, there are also certain court remedies, and the MLVT dispute resolution process is an option before going to court. Non-Governmental Organizations (NGOs) in Cambodia may also provide lawyers to help workers seeking remedies against recruitment agencies.

For **Thailand**, after paying a nominal fee, workers are issued a ticket in the form of an identification card with details such as the employer's name and date of departure. The function of the ticket is that it serves as proof of insurance that covers the worker for five years. If the worker flies back to Thailand for health reasons, or they did not pass their probation, etc., they can show this ticket to Ministry of Labour (MOL) to claim monetary compensation.

The authors were not able to find any information on the abovementioned data point for Laos.

⁸⁰ Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), s 46; Law No. 72/2006/QH11, art. 21; Law No. 69/2020/QH14, art. 23.

⁸¹ Law No. 69/2020/QH14, art. 72.

Chapter 4: Cooperation between public employment services (PES) and private employment agencies (PrEAs)

4.1 Conditions to promote cooperation between public employment services and private recruitment services

Information regarding conditions to promote cooperation between Public Employment Services (PES) and PrEAs is limited, and not readily available to the public. The data in the summary chart below was shared with the authors by the subject matter experts interviewed.

Table 4.1 – Do conditions exist to promote cooperation between PES and PrEAs

Country	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Conditions to promote cooperation exist	✓				✓		✓
Conditions to promote cooperation do not exist		✓	✓	✓		✓	

Three out of seven countries were identified as having conditions to promote both cooperation and a healthy, professional relationship between PES and PrEAs. Both **Cambodia** and **Philippines** have an information disclosure agreement in place between their national employment agency and PrEAs. In **Vietnam**, new legislation is expected in 2022 that would allow PrEAs to work with the PES in helping repatriate workers find work domestically.⁸² In contrast, the authors understand the only service the PES in **Thailand** offers is to help migrant workers who are not tech-savvy to complete online forms.

Partnership in the Philippines

In the **Philippines**, there is close coordination between the Public Employment Service Office (PESO) and the private recruitment agencies. In addition to employment and recruitment information sharing, the agencies can make use of the PESO's facilities to hold recruitment events. This program is extremely helpful to recruitment agencies that do not have provincial offices in Philippines. The PrEAs can recruit outside of Manila, expanding their potential applicant pool. PrEAs need to apply for a special recruitment authority permit to use the facilities at local PESO offices. Once approved, the facilities are offered free of charge.

⁸² Law No. 69/2020/QH14, art. 60.

Opinion: Thailand National Job Bank

One of the interviewees was of the view that In **Thailand**, the national job bank is unable to support PrEAs with supply of labour. This is mainly because many locals do not have confidence in the national job bank and prefer to register with the PrEAs directly. Job seekers recognize they will be better protected if they are deployed by PrEAs since PrEAs' licenses are at stake. Thus, PrEAs will actively protect and respond to workers' feedback during their deployment.

4.2 Measures to ensure PrEAs can assist the most disadvantaged workers in job seeking

Information on measures to ensure PrEAs can assist the most disadvantaged workers during the job seeking process was not found in published regulations in any of the seven surveyed countries except **Thailand**. For this paper, the most disadvantaged workers are considered minority groups in a society, such as older persons, persons with disabilities, and ethnic minorities.

Table 4.2 – Availability of measures to assist most disadvantaged workers

Country	Cambodia	Indonesia	Laos	Malaysia	Philippines	Thailand	Vietnam
Available						✓	
Not Available	✓	✓	✓	✓	✓		✓

The Employment Promotion Division under the Department of Employment (DOE) in Thailand has released a project that aims to help disadvantaged workers seek employment. The project has plans to outsource career advisors from recruitment agencies for job seekers. The career advisors will be tasked with providing comprehensive career guidance for disadvantaged workers. Additional research is required to examine the implementation of this measure, effectiveness and impacts.

Interview results

Most of the interviewees answered that it is not possible for PrEAs to help the most disadvantaged workers with job seeking. Their reasoning is that PrEAs must follow the job qualifications/ requirements set by the employers. This common answer raised the concern that employers may have discriminatory requests when listing job qualifications.

Chapter 5: Conclusion

A summary of the authors' conclusions with respect to the countries surveyed and their alignment to the principles contained in Convention 181 is contained in the following table:

Report (Chapter / Section)	Regulation of PrEAs				Measures for the Protection of Workers							Cooperation between PES and PrEAs	
	2.1	2.2	2.3	2.4	3.1	3.2	3.3	3.4	3.5	3.6	3.7	4.1	4.2
Convention No. 181 - Art	3	2	3	5	1	5	7	9	13, 14	10	14	13	5
Countries align with C.181	✓	✓	✓	✓					✓	✓	✓		
Countries do not align with C.181							✓						✓
Areas for further development					✓	✓		✓				✓	

The authors outline these in further detail below:

Areas in which countries align with Convention No. 181

- Majority of the countries regulate the operation of PrEAs in respect of **certain categories of workers** such as those considered to be protected categories of workers including women, children, disabled and domestic workers, in alignment with Convention No. 181.
- Majority of the countries have measures in place to ensure **supervision by the labour inspectorate** and information reporting requirements. The only exception is Laos, which had no relevant information available to the public.
- All of the countries (with the exception of Laos which had no available information), do broadly have some form of **machinery and procedures** in place to investigate complaints and abuses, however they are not limited to PrEA infringements, but rather a platform for a broad range of issues such as lack of pay for hours or overtime worked, work days and leave entitlements, missing migrant workers etc.
- Majority of the countries have penalties towards the agencies for breaches, while four of the seven countries have **remedies** for the worker in the form of compensation or repatriation.

Areas in which countries do not align with Convention No. 181

- Majority of countries do allow for the **charging of fees or costs to workers**, therefore not conforming to Convention No. 181. What is instead regulated is the type of fees and the maximum amount that can be charged.

- Only one country, Thailand, has introduced a program to help **disadvantaged workers** seek employment. Majority of the interviewees explained that such programs are difficult to implement as the job requirements are set by the employers, and PrEAs do not have much control over the requirements.

Areas for further development

- Majority of the countries do not have laws that require PrEAs to avoid giving false **information about the nature, pay and employment conditions of jobs** on offer. Furthermore, majority of the countries do not have laws that promote personal data protection and privacy of workers.
- In terms of the **discrimination**, Vietnam does touch on this from a cross border perspective and in the VAMAS Code of Conduct. However, the rest of the countries, have covered it generally in their broader regulatory provisions, which are not PrEA specific.
- There is generally a lack of PrEA specific regulations for **child labour**, as this is a topic which is mostly covered in broader labour legislation. Child labour may be permitted under certain circumstances, such as for non-hazardous work. However, generally if it is cross border, the individual needs to be over a certain age/not a child.
- Only three countries have introduced or are in the process of implementing programs that promote some form of **cooperation between PrEAs and the Public Employment Services**.

Chapter 6: Recommendations

As a result of the findings of the authors' research, including insights received from interviewees, the authors make the following conclusions and recommendations, which governments can take into account while implementing the Global Compact for Migration Objective 6 entitled "Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work".⁸³

6.1 Stricter enforcement of laws and consistency in their implementation

While most countries have laws that govern the relationship between PrEAs and workers that adhere to international standards recommended by Convention 181 (e.g. licensing under Article 3, protection against discrimination under Article 5, protection against fees under Article 7), the authors learned through the interviews conducted that issues such as corruption, lack of resources directed at enforcing rules or a culturally embedded resistance to change from the practices that have been in place before regulations were imposed, can hinder proper implementation of such measures.

An issue that both PrEAs and workers encounter is inconsistency in the implementation of rules and regulations both domestically and abroad. Through the interviews conducted, the authors learned that domestically, inconsistencies may arise in government implementation if there is a lack of clarity as to the requirements of the law. A worker who lives in a city may encounter drastically different requirements from one who lives in a rural or remote province even if they are governed by the same law, because government officers in provinces may not know the relevant rules or simply choose not to enforce them. Internationally, inconsistencies may arise if countries do not adhere to international standards set out in international conventions such as those provided by the ILO. A worker can be protected while they are within the jurisdiction of their home country, only to experience abuse once they travel out. Certain protected sectors (e.g. children) may not be covered in other countries, which leads to inconsistency in protection.

In order to address the issues outlined above, it is recommended that countries ensure that laws are updated regularly and implementing rules and guidelines are provided to expound on the intent of the law. Countries must also give priority to providing resources to key stages in the recruitment process to ensure that workers are protected and PrEAs are supported in their operations in a sustainable manner while laws are implemented and appropriately monitored and enforced. Countries must ensure that the purpose of the law and rules are clear to the public and stakeholders understand their rights and responsibilities.

Furthermore, it is recommended that countries should ensure that rules and regulations across the government are clear and enforced properly to the standards that are set out in the law. Through the interviews, some stakeholders recommended that countries develop a shared platform containing information about the recruitment process (laws, job postings, requirements, etc.) for the benefit of industry stakeholders, recruited workers and the community. Countries should also give consideration to ratifying Convention No. 181 to align with international industry standards.

6.2 Cooperation between PrEAs and the government

The ILO Recommendation No. 188 suggested multiple potential areas in which PrEAs and local government can cooperate. This includes but is not limited to: the sharing of information to improve transparency of labour market functioning; exchanging vacancy notices; training of staff; and

⁸³ https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195

consulting regularly with a view to improving professional practices.⁸⁴ The partnership in Philippines between the PrEAs and the PES offices shows a successful alternative method of cooperation through the pooling of resources to increase the employment rate in remote areas of the country.

For countries that lack the conditions to promote cooperation between PrEAs and the PES, the authors note that the main issue is that they do not have any well-developed programs under the PES. Governments should develop PES services together with PrEAs to gain an in-depth and localised understanding of the labour market needs which can then allow governments to plan for efficient allocation of resources.

It is also the authors' recommendation that the reports submitted by PrEAs to the authorities should be used to facilitate consultation sessions between PrEAs and the government offices to discuss further cooperation between PES and PrEAs.

6.3 Updating and modernizing existing legislation to align with current landscape

Due to changing technology and current affairs, regulations that are currently in force but set out several years ago may benefit from a long overdue review and update to keep them in sync with current times. This may decrease significant complexity for businesses to navigate through potentially archaic regulations, and move towards less or more streamlined reporting, licensing, and procedures. Furthermore, a reduction in business red-tape may allow for fees to be further decreased, benefiting migrant workers.

A specific aspect of the above that was raised during interviews relates to the use of social media and the current pandemic environment due to COVID-19. With lockdowns in place restricting in person attendance at PrEAs and the convenience of social media platforms, there has been a proliferation of illegal recruitment activity, as agencies post advertisements or communicate with interested job seekers through such platforms.

The PrEAs will need to report these incidents to the relevant authorities or they may be held liable for the fraudulent activity and penalised. Hence, it would be beneficial if regulations are modernised to account for such situations. The convenience of posting a job advertisement on social media should be counterbalanced with regulations, so as to prevent genuine job seekers from falling prey to fraudulent or imposter "agencies".

⁸⁴ ILO Recommendation No. 188, Art 17.



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