



Consular Staff and their Role in Protecting the Rights of Migrant Workers



Consular staff, in accordance with the international conventions that govern their functions, have a vital role in protecting the rights of migrant workers. These functions are fundamentally grounded on two United Nations conventions:

- **The Vienna Convention on Diplomatic Relations of 1961:** establishes that one of the functions of diplomatic missions is to protect the interests of the sending State and its nationals in the receiving State.
 - **The Vienna Convention on Consular Relations of 1963:** indicates that it is the responsibility of consular staff to protect the interests of the nationals of the State they represent in the receiving State, to help and assist them and represent them before courts and other authorities.
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Migrant Workers' Rights: main challenges

Seeking better job opportunities is the primary reason for global migration, for which the role of consular staff in defending and protecting the rights of workers is of essential importance. Many migrant workers may be in vulnerable situations because of various reasons, including not knowing the local language or customs of the country, among others.

Some employers take advantage of these situations and violate the rights of migrant workers, especially when they hold an irregular migration status.

Some of the most common challenges and violations identified include, but are not limited to:

- job segregation to highly dangerous industries in need of low-skilled labor (construction, agriculture, mining);
- lack of written contracts;
- unfulfillment of overtime pay, vacation, and holidays;
- salaries below the minimum wage;
- limitations to free association;
- lack of social insurance and insurance coverage for workplace accidents;
- the withholding of passports and/or other identity documents.



Many female migrant workers are unaware of their rights to maternity leave and breastfeeding time, and suffer sexual and other forms of harassment at work. Many of them work in highly unregulated industries, such as domestic work.

In view of these occurrences, consular staff has great responsibility, and should develop preventive actions, and protect and defend migrant workers when these violations occur.

What are some of the actions that consular staff can take to protect the rights of migrant workers?

1. Learn and stay updated on:

- Labor laws and special regulations in regard to the work of migrants, as well as migration legislation of the country where they exercise their functions.
- Social programs available for migrants, such as housing vouchers, unemployment or emergency aid, and scholarships for children, among others.
- The requirements for obtaining recognition of certifications and titles.

2. Establish ties with key entities in order to understand their programs and appropriately refer cases. This will require:

- Establishing coordination with Ministries of Labor for information exchange, counselling and the referral of cases related to labor rights.
- Establishing ties with private entities that offer aid and free legal advising services to migrants, health organizations, and training and education programs with the purpose of knowing their requirements and making referrals.
- Contacting unions that have migrant members and defend their interests.
- Identifying and making alliances with diaspora communities and migrant organizations.
- Strengthening consulate networks in order to coordinate efforts.

3. Inform nationals in receiving countries on:

- The existing migratory, labor, and social security agreements between countries.
- Their labor rights and the mechanisms to request inspections or report labor rights violations.

- The policies, programs, and mechanisms available for migrant workers to access labor justice.
- The available sources of aid.
- The non-governmental organizations which provide support, advice, and potential access to education, social security, and other services to migrants.
- Programs for migration regularization and procedures and requirements for these programs.

This information can be distributed through:

- Informational campaigns.
- Mobile consulates.
- National and local television channels, radio stations, and newspapers.
- The web pages of the consulate and its allied organizations.
- National holidays, cultural and health fairs, places where large numbers of migrants congregate (parks, certain communities).
- Social and training activities organized by the Consulate.
- Activities organized by diaspora communities.

4. Promote fair and ethical labor recruitment based on the General Principles and Operational Guidelines of the International Labor Organization for Fair Recruitment by:

- Promoting the signing of bilateral labor agreements that include worker and employers' organizations consultations for their development.
- Registering and monitoring private employment agencies and the contracts of migrant workers.
- Creating networks among consulates in the same area or region.

5. Safeguard the rights and working conditions of migrant workers, which involves:

- Verifying working conditions when labor agreements with the receiving country exist; protocols and checklists can be developed for this purpose.
- Visiting workplaces with high concentrations of migrant workers, such as farms, in coordination with the national labor inspection authorities. These visits can be used to provide migrants advice and information about their rights.

- Giving legal assistance and representing migrants in judicial processes.
- Coordinating with labor authorities to resolve conflicts and other issues.

6. Advise in processes of repatriation and/or return upon completion of work contracts, in areas like:

- Legal formalities.
- Paying for airline tickets.
- Establishing contact with the country of return and providing information on sources of help finding employment.

7. Cultivate a relationship with migrant communities in order to:

- Build trust and inform them about the work and services offered by the consulate.
- Support the integration of migrants, especially if the population is widely dispersed and there are few consular offices to cover the territory geographically.

8. Some additional consular services that can be offered, which also enable the office to keep a record of migrant workers, include:

- Creating a consular registry that records the persons who enter the labor market.
- Creating consular ID cards as an additional means of protection, which will enable monitoring in case of emergency or in special circumstances.



As a significant proportion of migrants work as domestic workers, it is important to create strategies to inform them about:

- Existing associations or unions of domestic workers.
- Programs and mechanisms to report situations of violence, and harassment at the job.
- Programs and organizations that provide protection.
- Rights related to maternity (maternity leave, right to breastfeeding time, prohibition of dismissal due to pregnancy, among others).
- Existing childcare services.

9. Contribute to the identification of opportunities for migrants within the labor market, which will require:

- Identifying the demand for labor in the host country.
- Disseminating information on the needs of the labor market in the host country.
- Promoting the streamlining of the recruitment processes while protecting the rights of migrant workers.
- Identifying companies and sectors recruiting workers and sharing that information.

10. Contribute to the improvement of migration policies in the country of origin, which involves:

- Systematizing useful information to give feedback on national migration policy in the area of labor, separated by sex.
- Promoting the development of migration policies under a human rights approach and that is gender-sensitive.
- Promoting exchanges of information and coordination between the host and origin countries.
- Promoting social dialogue on the topic of migration, organizing or participating in forums on the topic, or other types of analysis and discussion activities.
- Promoting the ratification of bilateral and multilateral agreements on migrant workers.
- Participating in regional and international discussions on migration topics.



Through the creation of consular networks, it is possible to increase the reach of actions that support migrant workers, especially when the staff and offices available are few and concentrated in highly populated regions.
