

Migrant Workers & Unions

IHRB Briefing

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Freedom of association and choosing to belong or not belong to a trade union are integral parts of a free society and are fundamental rights. Trade unions can play a vital role in improving health and safety, addressing grievances, and improving worker well-being. Unions may represent their members at their immediate workplace or in industry-

wide negotiations. National trade unions represent the interests of a wide range of workers, from labourers and cleaners to teachers and lawyers. International trade union federations bring together common concerns of trade unions at a global level, representing workers at the ILO and promoting labour rights in countries where unions are banned or restricted.

What Should Businesses Do?

- **Respect the inherent right** of employees, including the employees of contractors and sub-contractors, to organise themselves and to negotiate on issues of concern, irrespective of the legal or regulatory framework in operation.
- **Inform workers** in a language they understand of their right to join a trade union and of any operational level grievance mechanisms that exist.
- **Inform all contractors and sub-contractors** that no action should be taken against any individuals exercising trade union rights.
- Where trade union activity is **restricted by law**, facilitate the establishment of elected **worker committees**. As far as is possible, ensure that committees reflect the gender balance and the ethnicities and nationalities of the workforce.
- Ensure that a mechanism exists whereby employees of contractors can relay **grievances** safely and without fear of retribution.

Worker Representative Committees

Where workers cannot be effectively represented by trade unions, worker representative committees may be established. Migrant workers should have an equal right to join and be fully represented by such bodies. Management should ensure that those persons speaking for migrant workers are truly representative and have been freely elected. It may be necessary for management to offer extra support and training to migrant worker representatives to ensure that they can better represent the views of migrant workers and effectively engage with the processes, actions and initiatives of the committee.

ILO Standards

The rights of workers to organise in trade unions and collectively bargain are part of the ILO's **Fundamental Declaration of Labour Rights**.

ILO Convention 87, Freedom of Association and Protection of the Right to Organise, provides workers with the right to establish and join organisations of their own choosing without requiring authorisation.

ILO Convention 98, the Right to Organise & Collective Bargaining Convention, protects the right of workers to negotiate with their employers on terms and conditions to reach collective agreements.

Can Migrant Workers Unionise?

While the vast majority of countries recognise the right of workers to freedom of association, in some countries workers are not allowed this right. In others it is specifically denied to migrant workers, even though under ILO standards they should have the same trade union rights as citizens. Denying migrant workers the right to form or join unions and to collectively bargain makes them vulnerable to exploitation and abuse.

Even where they are formally allowed to join unions, migrant workers can often in practice find it difficult to access trade union protection. There are two common reasons for this: i) migrant workers are often over-represented in the informal economy at the end of long labour-supply chains; and ii) migrant workers may not possess resident or work visas and be fearful of seeking the protection of formal institutions.



Barriers to Union Participation by Migrant Workers

- **Language and Cultural Barriers:** Unions may lack resources for effective engagement with migrant workers.
- **Access:** Unions denied access to work sites and worker accommodation.
- **Suspicion or Poor Experiences of Unions in Home Countries:** In some countries unions are seen as being connected to individuals or particular political parties.
- **Sectoral Organising:** Many unions organise by industry sector. Migrant workers may not identify with their employment sector abroad viewing their position as only temporary.
- **Gender Discrimination:** Female migrant workers may be poorly represented, excluded from or intimidated by male dominated trade union practices.
- **Temporary and Agency Working:** Many migrant workers are employed through agencies with continuous temporary placements across a variety of sectors.
- **Non-Unionised Workplaces:** Many migrant workers are employed either informally or in non-unionised workplaces.
- **Costs of Membership:** For all workers costs of union membership can be a challenge. Migrant workers may have additional recruitment debts and costs to service or be keener to remit money home.

Grievance Mechanisms

Businesses may play a role in managing grievances directly, particularly if trade unions are banned from representing migrant workers. Some businesses have established worker representative committees to help prevent disputes and to resolve grievances. In setting up committees of this kind, businesses should closely consult workers, and allow workers to lead the process of design and implementation as far as possible. They must not be used as an alternative, competitive forum to trade unions where unions are able to represent workers.

Dhaka Principles for Migration with Dignity



Principle 6: The right to worker representation is respected

Migrant workers should have the same rights to join and form trade unions and to bargain collectively as other workers.

Visit the Dhaka Principles website to view the full [Implementation Guide](#).

"Operational-level grievance mechanisms should not be used to undermine the role of trade unions in addressing labour-related disputes."

OECD Guidelines for Multinational Enterprises