

**Core  
Principle B**

**ALL MIGRANT WORKERS ENJOY THE PROTECTION OF EMPLOYMENT LAW**

Migrant workers should have a legally recognised employment relationship with an identifiable and legitimate employer in the country where the work is performed.

Migrant workers are vulnerable to abuse without the protection of law, and are at particular risk where the placement and recruitment of workers is outsourced to third parties that are not legally recognised as employers in the country where the work is performed. The principle means by which workers are protected is through labour or employment law, which is distinct from the law that applies to commercial relationships. The application of labour or employment law is based on the recognition of an employment relationship, which creates a legal link between the employee and the employer. Employment law is usually designed to protect the rights and outline the responsibilities of workers and employers and creates a framework to ensure that workers have protection from exploitation, while recognising the mutual obligations of both parties to uphold the terms of any contract between them. Irrespective of how the law is defined in a particular country, the employment relationship is a universal concept. It is among the most important means by which society ensures that workers' rights are protected and employment relationships are fair and just.

Much of the exploitation and abuse of migrant workers is possible because the work is performed outside of the legal framework intended to protect workers. In order for workers to have the protection of law and access to justice their work must be performed within a legal framework in the country in which the work is undertaken. Because both parties in an employment relationship must be recognised, the employer must be identifiable and legally recognised as such within the country where the work is performed. The employer must be a business enterprise capable of assuming the legal obligations of the employer established in national law. With respect to domestic work the employer need not be a business enterprise but needs to be capable of assuming the legal obligations of an employer.

**IMPLEMENTATION STEPS**

- An agreement between a worker and a migrant recruiter for job placement in another country must not be treated as a substitute or an alternative to a written contract of employment between the migrant worker and the user enterprise in the country in which the work is performed.
- Employers should provide migrant workers with a written contract of employment according to the national law and practice of the country in which the work is performed. Where necessary an authorised translation of the contract should be provided in a language each worker understands.<sup>5</sup>
- Employers should be familiar with the legal requirements and necessary documentation for migrant workers in countries of origin and destination, and ensure that proper legal procedures are followed and any necessary paperwork is obtained.

<sup>5</sup> See Principle 2 for additional guidance on migrant worker contracts.