

Response to the call of the UN Special Rapporteur on the human rights of migrants for input on how to expand and diversify regularization mechanisms and programs to enhance the protection of the human rights of migrants.

Anti-Slavery International and Focus on Labour Exploitation (FLEX)

February 2023

This submission by Anti-Slavery International¹ and FLEX² provides information on **modern slavery risks arising for migrant workers due to obstacles to safe and accessible regularisation pathways** (procedures and programmes).³ It reflects on the importance of promoting more numerous and improved regular pathways for migration, including better labour migration schemes, as a longer-term, sustainable solution to irregular migration and modern slavery. As UK-based civil society organisations, we use the UK as our primary case study throughout, as well as citing a regularisation programme case study in Italy.

Our main recommendations to governments are as follows:

- Broaden pathways for migration to enable individuals to safely access countries through regular options and have access to protection mechanisms against exploitation whilst living and working at destination.
- End restricted visas that tie workers to specific labour areas and workplaces, or that restrict workers' ability to change employer.
- Erect firewalls between labour inspectorates and the police/immigration enforcement, to ensure secure reporting for irregular migrants in exploitative labour.

Q1: Please indicate how can regularization processes facilitate the enjoyment of human rights by migrants as well as their cultural, social and economic integration into the host communities, taking into account that migrants in an irregular situation live in constant fear of detention or deportation, becoming excluded from the social protection system as a result of a change affecting the regularity of their residence in the country;

Access to status regularisation reduces migrants' vulnerability to modern slavery and thus facilitates their ability to enjoy their human rights in countries of destination.⁴ Research conducted in 2014 found that *"irregular residence status is a risk factor for severe forms of labour exploitation [... as ...m]igrants in such condition are willing to compromise their rights*

¹ Anti-Slavery International, established in 1839, challenges modern forms of slavery by working with partners to tackle slavery's root causes.

² Founded in 2013, Focus on Labour Exploitation (FLEX) is a research and policy organisation working towards an end to labour exploitation.

³ See PICUM's report for definitions: PICUM, [Regularisation mechanisms and programmes: Why they matter and how to design them](#) (2023).

⁴ IOM, [COVID-19 Analytical Snapshot #71: Regularization](#) (2021).

and to work without valid contracts.”⁵ Employers, in turn, take advantage of migrants’ need and precariousness to inflict exploitative working conditions.

A 2019 International Organization for Migration (IOM) report confirmed that irregular residence status increases migrants’ vulnerability to modern slavery, including due to reliance on smugglers, officials’ corruption, and lack of access to protection mechanisms and safety nets.⁶ When combined with other conditions, such as lack of local language skills, physical or emotional isolation, lack of integration, and absence of firewalls, vulnerability to modern slavery for migrants without regular residence status becomes even greater.

This is also true when residence status is tied to a sponsor, often an employer. Visa dependency and a lack of freely changing employment creates a power imbalance between the employer and the migrant worker, as fear of losing regular residence status can result in individuals enduring exploitative conditions or fleeing as they become irregular migrants.

Similarly, temporary migrant labour schemes, where governments define (often restrictive) conditions and requirements of entry and stay of migrant workers, place migrant workers at greater risk of modern slavery:⁷ lack of freedom to change employment, exorbitant recruitment fees and freedom of movement limitations result in workers accepting exploitative working conditions to pay off their debts and maintain a regular residence visa.

Q2: Please share examples of national and regional solutions to legalize the stay for migrants in irregular situations and indicate whether your country has adopted any bilateral, sub-regional, regional, international mechanisms, agreements, frameworks or programs, including in the context of labor migration;

During the COVID-19 pandemic, Italy opened a regularisation programme for migrant workers living in the country (without regular residence status) engaged in the care, domestic, and agriculture sectors. Italy’s agricultural sector relies heavily on migrant workers with irregular residence status and their consequent exploitation. Based on the regularisation programme, those employed in the above-mentioned sectors, with the support of their employer, could request a residence visa for work. Those with irregular status, who had previously worked in those same sectors, could also apply for a 6-month residence visa extension. After 6 months, if they had found another job, the visa extension could be transformed into a residence visa for work.

Despite these positives, migrant workers in conditions of modern slavery faced significant barriers in effectively benefitting from the regularisation programme, due to the specificities of the exploitation they faced.⁸ Firstly, migrant workers’ regularisation was dependent on the collaboration of the employer. If migrant workers were in exploitative conditions, it was highly unlikely the employer would support their regularisation process. Secondly, if at the

⁵ Social Fieldwork Research, [Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States](#) (2014).

⁶ IOM, [Migrants and Their Vulnerabilities](#) (2019).

⁷ Quirk, J. et al., [Editorial: From Exceptional Cases to Everyday Abuses: Labour exploitation in the global economy](#), *Anti-Trafficking Review*, issue 15 (2020).

⁸ Human Rights Watch, [Italia: i difetti delle procedure di regolarizzazione dei migranti. Lezioni da imparare per il futuro](#) (2020).

end of the application process a 'supportive' employer changed their mind, migrant workers were left with no protection and the employer faced no accountability for having employed migrants in irregular status. Additionally, those who endured modern slavery conditions at work were often unable to demonstrate previous experience in the given sector. This made it difficult for them to obtain regularisation, even if their application was not employer dependent.⁹

The Italian case is an example of an ineffective regularisation attempt, which shows the importance of designing long-term solutions that effectively take into account vulnerabilities to modern slavery. As argued by Dr. Palumbo at the European University Institute:

"Temporary and selective regularisation cannot be the only response, and above all it is not enough to prevent and combat the exploitation of migrant workers ... profound change of [...] migration policies is fundamental to develop safe and legal entry routes, and to remove the link between the residence permit and the labour contract, which is a driving factor in exploitation and abuse."¹⁰

We need plentiful and improved pathways to enable people to enter a country regularly and avoid falling into irregular status from the very beginning, regardless of their reason for migration.

Q3: Please share examples of promising practices, including ad-hoc programs and permanent regularization mechanisms that your country or region has adopted to promote a human rights-based approach to migration. Please indicate any specific challenges that your country has encountered in regularization processes, with particular attention on how such challenges affect migrant workers, women and girls, children, and other persons and groups;

The UK's restrictive and compliance-focused immigration system leaves little room for meaningful regularisation. This impacts the risk of exploitation of migrant workers and their ability to access support. Data is routinely shared between labour inspectorates and the police to immigration enforcement, and in some cases joint inspections are carried out. This blocks migrants from interacting with labour inspectors and the police due to fears of deportation. It generates a system whereby immigration control is given primacy over victims' and survivors' wellbeing¹¹, and therefore exploited migrant workers are blocked from regularising and recovering from their abuse and instead put into immigration enforcement, potentially being detained and deported.¹²

The UK's use of short term restricted visas, with no routes to long term regularisation, are key drivers in the UK's exploitation of migrant workers. The restrictions in the UK's Overseas

⁹ Bagnardi, F, and D'Onofrio, G., [Lavoro agricolo migrante: appunti sulla sanatoria](#), Officina Primo Maggio, n.d.

¹⁰ Palumbo, L., [The Italian Plan for Regularisation: Real progress for migrants' rights?](#), MPC blog (2020).

¹¹ LAWRS, [Joint Response to the "Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status" Review](#) (2022).

¹² FLEX, [Safety for Migrant Workers: the case for safe reporting mechanisms](#) (2022).

Domestic Worker (ODW) visa increases the vulnerability of migrant domestic workers to abuse, exploitation and trafficking. Although since 2016 ODW visa holders can theoretically change employer within the domestic work sector, they cannot apply to renew their six-month visa, even if they have an offer of ongoing new employment. This makes the right to change employer meaningless in practice. The 2016 changes do not sufficiently enable workers to escape abuse and exploitation. Nor does the visa allow for access to public funds.¹³

The hidden nature of domestic work in a private household and lack of labour market enforcement in this area, the blurred boundaries around work and time off when you live in your place of work, and the multiple dependencies on the employer for work, accommodation, visa status and often information about the UK and local laws, all diminish the ability of workers on the 2016 ODW visa to leave abusive and exploitative employers.

The UK's increased reliance on temporary worker visas, such as the seasonal agricultural worker scheme, has created an environment in which labour exploitation can proliferate. Agriculture is a high-risk sector for human trafficking for forced labour due to the nature of its supply chain, remote working and isolation, and high prevalence of migrant workers who often face barriers accessing information and support due to factors such as the language barrier, limited access to information, and low unionisation rates, among others.

The UK has not put in place sufficient safeguards against illegal labour practices in source countries. This means that many workers, especially from Nepal and Indonesia, are being charged high fees by recruiters meaning they are often in debt when they arrive in the UK.¹⁴ A lack of consistency in work and the inability to change employer means many workers have become stranded, creating an enabling environment for exploitation.

Q4: Kindly highlight any contribution of migrants, including migrant workers to the economy and society of the host communities;

Migrant workers contribute in many ways to the economic and social development of host communities. These are assessed in detail in the 2020 World Migration Report,¹⁵ which recognises benefits including:

- Cultural diversity
- Peacebuilding through the diaspora
- Contribution to population growth and labour supply
- Driving entrepreneurship and innovation

The contributions of migrant workers and survivors of exploitation in the fight for better rights and protections cannot be overstated. Groups built from, and led by, members of the

¹³ NRFP Network, [Immigration status and entitlements](#).

¹⁴ Emily Dugan, [Revealed: Indonesian workers on UK farm 'at risk of debt bondage](#). The Guardian (2022).
Seasonal fruit pickers left thousands in debt after being sent home early from UK farms

¹⁵ McAuliffe, M. et al, [Reflections on Migrants' Contributions in An Era of Increasing Disruption and Disinformation](#), World Migration Report, IOM (2020).

community frequently facilitate exploited migrant workers and trafficking survivors to support their community, campaign for change and defend their rights. They provide leadership in campaigning, research and advocacy as well as developing associations that allow for direct support for exploited workers.

Q5: Engagement with civil society organizations, national human rights institutions, and other stakeholders: Please provide information of concrete initiatives, actions and programs relating to the regularization of migrants in an irregular situation that have been developed, including jointly, by civil society organizations, national human rights institutions, and other stakeholders in your country. Please explain to what extent the work of civil society organizations and other stakeholders is taken into account to inform national policies;

In the UK context, there has been limited engagement with civil society when assessing and addressing the risks associated with fixed term and restricted visas, such as the Seasonal Worker Scheme. The UK Government's immigration policy leads in the Home Office have reduced the scope and quality of stakeholder engagement so far that it is largely now meaningless. Consistently, risks are ignored to the detriment of migrant workers.

Despite the UK Government's concerns regarding the scheme, as contained in its own review of the Seasonal Workers Pilot in December 2021¹⁶, the Government has decided to expand the scheme.

Q7: Please include any other relevant information relating to the regularization of migrants in an irregular situation.

Regularisation programmes are a temporary fix to structural problems.¹⁷ We need a systemic change in migration management that promotes safe migration through legal pathways. This is a way to reduce migrant workers' vulnerability to modern slavery and improve the benefits of migration in both countries of origin and destination. As argued by the Platform for International Cooperation on Undocumented Migrants¹⁸ effective labour migration schemes that facilitate regular entry and work for migrants, through which they can safely change employer and denounce abuses, will also result in better societies at destination.

¹⁶ UK Department for Environment, Food & Rural Affairs and Home Office, [Seasonal workers pilot review](#) (2021).

¹⁷ Fanjul, G. and Dempster, [Regularizing Migrant Workers in Response to COVID-19](#), Center for Global Development (2020).

¹⁸ PICUM, [Fair labour migration: why we need decent work permits in Europe](#), YouTube (2022).