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GLOBAL JUSTICE KENYA

A PRACTICAL GUIDE FOR MIGRANT WORKERS AND THEIR FAMILIES

"Where there is a Right, there MUST be a Remedy."



An accessible companion to the Pathways to Justice Legal Roadmap and From Evidence to Remedy Documentation Toolkit, explaining migrant workers' rights, warning signs of exploitation and practical pathways to support and remedies.

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1. Who is a migrant worker?

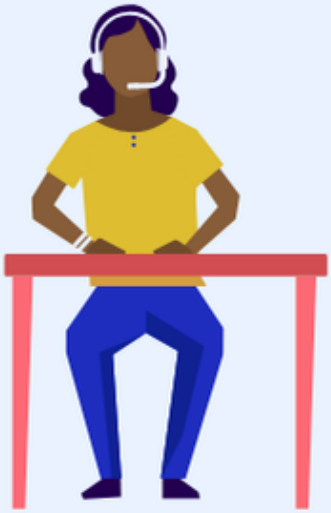
A migrant worker is any person who moves from one country to another for the purpose of remunerated employment, whether temporarily or permanently, regardless of the type of work performed, the terms of their contract, or their migration status. This includes, but is not limited to:

- Domestic workers;
- Construction workers;
- Security guards;
- Drivers;
- Gardeners;
- Hospitality workers;
- Professionals and highly skilled workers;
- Agricultural workers;
- Any person recruited for employment outside Kenya.



What this means

If you leave Kenya for work, you do not lose your rights simply because you are working abroad. Depending on the circumstances of your case, you may be able to seek protection and remedies under Kenyan law, the laws of the country where you work, and applicable international law.



Understanding your rights

Kenyan migrant workers are protected by Kenyan law as well as international labour and human rights standards. Depending on the circumstances of your case, you may be entitled to protection and remedies under labour, employment, anti-trafficking, criminal, civil, constitutional and administrative law. These protections apply before departure, while working abroad and after returning to Kenya. Different remedies may be available at the same time, and seeking assistance through one mechanism does not prevent you from using another where appropriate.

2. Basic rights of a migrant worker

2.1. Your rights as a migrant worker under Kenyan law

Before departure

You have the right to:

- Receive accurate information about the job being offered and the terms of the employment.
- Sign and receive a copy of a written employment contract before departure.
- Attend mandatory pre-departure training and orientation at a National Industrial Training Authority (NITA)-accredited institution. The cost of this training is ordinarily borne by the prospective migrant worker, unless the recruitment agency, employer, or a specific labour migration programme has agreed to cover or reimburse the expense. The Government has capped the cost of the combined Homecare Management and Pre-Departure Training for low-skilled or domestic migrant workers at **KSh 14,000**, although specialized or additional private training modules may attract higher fees.
- Be protected from unlawful recruitment fees and deceptive recruitment practices: The **Labour Institutions (Private Employment Agencies) Regulations, 2016** only allow an agent to charge a "reasonable administrative fee" for services such as trade or occupational tests. This total fee **MUST NOT exceed the equivalent of one month's proposed salary.**
- Receive information on how to seek help while abroad. This should be part of your pre-departure training in a module called “Migrant workers’ support systems”. Make sure to ask if not delivered during the training.

While working abroad

You have the right to:

- Fair wages and decent working conditions: These are primarily determined by your employment contract and the labour laws of the destination country. Bilateral Labour Migration Agreements, where they exist, may provide additional protection and cooperation mechanisms.

- Rest periods and reasonable working hours: Your working hours, rest periods, and overtime arrangements should be governed by the labour laws of the destination country and the terms of your employment contract. Before you travel, your contract should clearly state your working hours, overtime conditions, and weekly rest days. Kenya's Employment Act sets a standard cap of 52 hours per week for day workers, mandatory overtime pay, and at least one full rest day every seven days.



- Food, accommodation, and medical care where applicable.
- Keep possession of your passport and personal documents.
- Communicate freely with family and friends.
- Freedom from forced labour, violence, harassment, and exploitation.
- Access assistance from Kenyan embassies and labour attachés. Find your embassy's contacts here: https://diaspora.go.ke/missions.

Upon return

You have the right to:

- **Access support services and referrals:** the National Employment Authority (NEA) can help you re-enter the labour market and access psychosocial support.
- Report abuses suffered abroad to the police, the NEA, or the **Directorate of Labour Migration Management** at Social Security House on Bishops Road in Nairobi.
- **Seek compensation and other remedies:** If your rights are violated, you may seek compensation and other remedies through the complaint and justice mechanisms outlined in this Guide, including the relevant authorities in the destination country, Kenyan diplomatic missions abroad, and the appropriate institutions in Kenya.
- **Access justice:** You have the right to seek justice if your rights have been violated. However, certain legal claims or procedures may be subject to statutory time limits, which vary depending on the applicable law and the type of claim. Seek legal advice as soon as possible to avoid missing any applicable deadlines.

2.2. Before you leave Kenya: Practical checklist

Before you travel

- ☐ Verify that your recruitment agency is licensed by the National Employment Authority (NEA).
- ☐ Ensure you have a written employment contract that you understand and that has been approved in accordance with Kenyan labour migration procedures.
- ☐ Keep paper and electronic copies of your passport, visa or work permit, employment contract, air ticket, insurance documents, and other important records.
- ☐ Confirm the details of your employer, including the employer's name, address, telephone number, and your intended place of work.
- ☐ Confirm your salary, job duties, working hours, leave entitlements, accommodation arrangements (where applicable), and other terms and conditions of employment.
- ☐ Obtain the appropriate visa or work permit before departure.
- ☐ Complete the mandatory pre-departure training and orientation.
- ☐ Ensure you have adequate medical and travel insurance where required.
- ☐ Save the contact details of the Kenyan embassy or consulate, local emergency services, your recruitment agency, and trusted family members.
- ☐ Share your travel itinerary and copies of your important documents with a trusted family member or friend.
- ☐ Learn about the destination country's laws, culture, customs, and emergency procedures, including your rights and responsibilities as a migrant worker.

How to check if a recruitment agency is licensed

Before paying any money or signing documents:

- ✓ Ask for the agency’s NEA license number.
- ✓ Verify the agency through the National Employment Authority (NEA).
- ✓ Avoid agencies that refuse to provide registration details.
- ✓ Be cautious of recruiters operating only through social media or informal networks.

3. Red flags and common forms of exploitation

These warning signs may occur before departure, during travel or while working abroad:



- Being promised one job but given another;
- Excessive recruitment fees or debt;
- Confiscation of passports or identity documents;
- Non-payment or underpayment of wages;
- Excessive working hours without rest;
- Restriction of movement;
- Restriction of communication with family;
- Physical violence;
- Sexual violence or harassment;
- Threats, intimidation, or coercion.

If you experience any of these situations, seek assistance immediately. They may indicate labour exploitation, forced labour, or human trafficking.

4. What to do if you need help

Step 1: Seek advice

If possible, first speak with a trusted organization, trade union, legal aid provider or other support service (listed at the end of this guide). They can help you understand your rights, identify the most appropriate remedy, preserve evidence and navigate available procedures.

Not every problem requires going to court. Many labour migration disputes can first be addressed through administrative and other non-judicial mechanisms. Depending on your situation, you may obtain information, lodge a complaint, seek mediation or conciliation, request repatriation assistance, or be referred to legal aid and other support services. Where appropriate, you may still pursue criminal or civil remedies afterwards.

Step 2: Report the case

- Go to the nearest police station;
- Record a statement and get a case number.

Step 3: Provide evidence

Keep and share:

- Your contract;
- Messages or emails;
- Photos/videos of working conditions;
- Payment records.

Step 4: Investigation

- The Directorate of Criminal Investigations (DCI) investigates the case;
- The file is forwarded to the Office of the Director of Public Prosecutions (ODPP).

Step 5: Prosecution

- The ODPP decides whether to take the case to court.

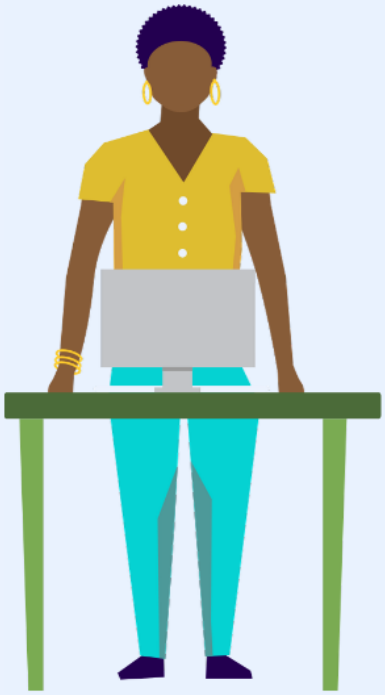
Step 6: Civil claims: Seeking compensation

Civil claims may be used to recover:

- Unpaid wages;
- Recruitment fees;
- Medical expenses;
- Costs incurred because of exploitation;
- Compensation for physical or psychological harm;
- Compensation arising from a breach of contract.

Depending on the circumstances, claims may be filed against:

- Recruitment agencies;
- Employers;
- Other responsible individuals or companies.



Where can you get help?

If you need assistance before departure, while working abroad, or after returning to Kenya, you can seek support from the institutions and organizations listed in the **Key institutions and referral pathways** table below. Depending on your circumstances, these may include:

- **National Legal Aid Service (NLAS):** Provides free legal aid, legal advice, and referrals for eligible persons.
- **Kenya National Commission on Human Rights (KNCHR):** Receives and investigates human rights complaints, facilitates referrals, and may institute or participate in court proceedings in appropriate cases.
- **Civil Society Organizations (CSOs):** Organizations such as Global Justice Kenya, FIDA Kenya, Kituo Cha Sheria, HAKI Africa, and other recognised legal aid providers offer legal information, representation, documentation support, referrals, and, where appropriate, psychosocial support.
- **Trade unions:** Trade unions such as COTU-K and KUDHEIHA provide labour rights advice, assist in resolving employment disputes, and advocate for workers' rights.
- **Kenyan embassies, high commissions, and labour attachés:** Can provide consular assistance, facilitate communication with local authorities, and support Kenyans facing difficulties abroad.

For contact details and the specific services provided by each institution, see the "Key institutions and referral pathways" table below.

Victims of trafficking: Accessing the National Assistance Trust Fund (NATF)

If you are a victim or suspected victim of human trafficking, you may be eligible for support through the National Assistance Trust Fund (NATF).

Applications are coordinated through the Counter-Trafficking in Persons Secretariat. A referral may be made by the police, government agencies, legal aid providers, civil society organizations or other authorized institutions assisting you. Depending on your circumstances, the Fund may provide legal aid, medical care, psychosocial support, shelter, repatriation assistance and economic empowerment.

Important You do not need to wait for a criminal case to finish before pursuing compensation through a civil claim.

5. Special support for women migrant workers

Women migrant workers may face additional risks including:

- Sexual harassment;
- Sexual exploitation;
- Gender-based violence;
- Domestic servitude;
- Restrictions on movement;
- Pregnancy-related discrimination;
- Barriers to reporting abuse.

If abuse occurs:

- Seek safety immediately;
- Obtain medical assistance;
- Preserve evidence;
- Report the incident to the police, embassy, labour attaché, or a trusted support organization;
- Request psychosocial and legal support where available.

6. Evidence preservation

Evidence helps prove what happened and may support:

- Criminal investigations;
- Compensation claims;
- Labour complaints;
- Requests for assistance and protection.

Try to keep:

- Copies of your contract;
- Passport and travel documents;
- Pay slips;
- Bank transfers;
- Messages and emails;
- Contact details of witnesses;
- Screenshots of job offers or chats;
- Photos or videos of working conditions; and
- Medical reports (if injured).

N.B. Keep as much relevant evidence as possible.

7. Frequently Asked Questions (FAQs)



Do I need a contract before travelling?

Yes. You should receive a written employment contract before departure. The contract should be reviewed and attested by a labour officer from the Ministry of Labour. Keep a copy of the signed contract.

Can an agent send me abroad if they are not registered?

No. Only recruitment agencies licensed by NEA can recruit and place workers abroad.

What if my employer takes my passport?

This is a violation of your rights. Report it immediately.

Can I report a case while still abroad?

Yes. You can seek assistance through the nearest Kenyan embassy or labour attaché where available, report the matter to local authorities where appropriate, and seek assistance from trusted organizations providing support to migrant workers **(listed at the end of this guide)**.

Can I receive compensation?

Yes, in some cases and depending on the circumstances. This can be achieved through court or government support mechanisms.

What if the police do not follow up on my complaint?

You can report directly to the ODPP or seek legal help from the National Legal Aid Service (NLAS) or civil society organizations and pro bono lawyers.

Did you know?

- ✓ You do not need to wait for a criminal case to file a civil claim. Both cases can run concurrently.
- ✓ Recruitment agencies can be personally liable for abuse experienced abroad.
- ✓ You can join other workers and file a case together to reduce costs.
- ✓ Victims of trafficking should not be required to pay court fees when filing claims.
- ✓ The government has a National Assistance Trust Fund (NATF) designed to support victims including repatriation.
- ✓ You can still seek justice even after returning to Kenya by reporting to the organizations listed below.

8. Key institutions and referral pathways

Institution	How they can help	Contact information
National Employment Authority (NEA)	Recruitment complaints, verification of licensed recruitment agencies, labour migration registration	**Toll-Free:** 0800 222 223 **Tel:** +254 (020) 8610000 **Email:** info@nea.go.ke **Website:** https://neaims.go.ke/
Ministry of Labour and Social Protection (State Department for Labour and Skills Development)	Labour migration policy, employment contract attestation, labour complaints and referrals	**Tel:** +254 (020) 2729801 / 2729804–819 **Email:** info@labour.go.ke **Complaints:** complaints@labour.go.ke **Website:** https://www.labour.go.ke/
Migrant Resource Centres (MRCs)	Safe migration information, pre-departure guidance, complaint guidance, referrals and reintegration support	**Locations:** Nairobi, Mombasa, Nakuru, Eldoret, Kisumu, Garissa, Wajir (network continues to expand). **For the nearest MRC:** Contact the State Department for Labour and Skills Development (Tel: +254 (020) 2729801 / 2729804–819 - Email: info@labour.go.ke) or your County Labour Office.
Directorate of Criminal Investigations (DCI)	Criminal investigations into trafficking, forced labour, fraud and related offences	**24/7 toll-free hotline 0800 722 203 or the WhatsApp tip line 0709 570 000.** **Emergency:** 999, 911 or 112. **Website:** https://www.dci.go.ke/ Report to the nearest DCI office or police station.
Office of the Director of Public Prosecutions (ODPP)	Criminal prosecutions and victim participation in criminal proceedings	**Website:** https://www.odpp.go.ke Contact the nearest County ODPP Office.

Institution	How they can help	Contact information
Counter-Trafficking in Persons Secretariat (CTiP Secretariat)	Victim referrals, trafficking assistance, coordination of services and access to the National Assistance Trust Fund	**State Department for Labour and Skills Development** **Tel:** +254 (020) 2729801 / 2729804–819 **Email:** info@labour.go.ke **Website (where available):** https://countertrafficking.go.ke
Kenyan embassies / high commissions / labour attachés	Emergency assistance abroad, consular protection, labour complaints, repatriation assistance	**Directory of Kenyan Missions Abroad:** https://mfa.go.ke/kenyan-missions-abroad Contact the Kenyan Embassy or High Commission responsible for your country of employment.
National Legal Aid Service (NLAS)	Free legal aid, legal advice and referrals	**Toll-Free:** 0800 720 640 **Email:** info@nlas.go.ke **Head Office:** Kenya Charity Sweepstake (KCS) House, Nairobi **Regional Offices:** Nairobi, Mombasa, Kisumu, Nakuru and Eldoret **Website:** https://nlas.go.ke
State Department for Diaspora Affairs	Assistance to Kenyans in distress abroad and referrals to diplomatic missions	**Tel:** +254 114 757 002 **Email:** info@diaspora.go.ke **Website:** https://diaspora.go.ke/contact **In case of emergency:** https://diaspora.go.ke/emergency
Central Organization of Trade Unions – Kenya (COTU-K)	Workers' rights advice, labour rights support and referrals	**Tel:** +254 (020) 2383368 / 2383367 **Email:** info@cotu-kenya.org **Website:** https://cotu-kenya.org

Institution	How they can help	Contact information
KUDHEIHA Workers Union	Advice and support for domestic workers and workers in hotels, education, hospitals and related sectors	**Website:** https://kudheiha.org Contact the nearest regional office through the union website. **Tel:** +254 202-241-509 / +254 713-464-006 and mobile +254 103-764-991
Kenya National Commission on Human Rights (KNCHR)	Human rights complaints, investigations and referrals	**Landline:** +254 (020) 3969000 **Mobile:** 0726 610 159 **WhatsApp:** 0798 849 871 **General enquiries:** haki@knchr.org **Complaints:** complaint@knchr.org **Website:** https://www.knchr.org
Civil society organizations, migrant worker associations and legal aid clinics	Legal information, psychosocial support, documentation, legal representation and referrals	Contact recognized organizations operating in your area, including **Global Justice Kenya**, **FIDA Kenya**, **Kituo Cha Sheria**, **Haki Africa** and other local migrant support organizations.
Global Justice Kenya (GJK)	Legal information, documentation, referrals and access to justice support for migrant workers and survivors of trafficking	**Website:** www.globaljusticekenya.org **Email:** contact@globaljusticekenya.org **Tel:** +254 746 633 513 **Address:** 4th Floor, Muthangari Drive, Nairobi, Kenya

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