

GLOBAL UNIONS STATEMENT TO THE 2<sup>ND</sup> GLOBAL FORUM ON MIGRATION  
AND DEVELOPMENT  
MANILA, PHILIPPINES, 27-30 OCTOBER, 2008

*Constructing an architecture of protection of human and trade union  
rights, for migrant workers and their families*

**EXECUTIVE SUMMARY**

- The policies surrounding global labour migration and development affect the conditions of work and life, as well as the human rights of migrant workers and their families. They are therefore central to the concerns of the international trade union movement. As a consequence, global unions will continue to be actively engaged in the Global Forum on Migration and Development (GFMD) going forward.
- Global unions call for a resolute shift away from the current narrow focus on temporary forms of migration to fill labour market shortages and further the economic gains to capital in the global economy. Trade unions have highlighted the all too frequent incidence of violation of the fundamental human and trade union rights of migrants, which is the result of this approach.
- Global unions maintain that the linkages between economic development and migration need to be fully analyzed, and the root causes of migration under unfavourable conditions need to be addressed.
- Global unions have expressed concerns with the GATS Mode IV of the WTO on the temporary movement of natural persons, and its role in the shaping of bilateral and regional migration agreements. They assert that this is not a satisfactory basis for the formulation of sustainable migration policies, given its narrow focus on labour as a tradeable service, and temporary forms of labour migration, as well as its failure to incorporate workers' rights guarantees.
- What is needed is an approach which recognizes the positive contribution of migrants both to their host and home countries, and which places their welfare and rights at the centre of policies and agreements.
- To achieve these welfare and rights-enhancing outcomes, Global Unions are calling for the construction of **an architecture of protection of human and trade union rights, linked to development commitments**, to underpin all migration policies.
- This must be a comprehensive, rights-based, gender-sensitive regulatory framework. Its elements will be the key international Covenants, Conventions and internationally agreed development goals that are a part of the regulatory and social policy framework of the United Nations system, and particularly the ILO.

- Operating within such a regulatory framework, policies and agreements must squarely address and overcome the downside risks of migration, including: violation of fundamental human and trade union rights of migrants, unethical recruiting practices, exploitative and hazardous conditions of work, breach of employment contracts, and failure to allow or recognize trade union membership.
- Policies must equally recognize the fact that the gender biases characteristic of labour markets as a whole tend to affect migrant women even more acutely. Women are more likely to be discriminated against in terms of pay and conditions of work, and often face situations of exploitation and gender-based violence, especially in the entertainment sector, or in domestic work. They also comprise the vast majority of trafficked victims. Policy measures must squarely address and overcome these negative impacts on migrant women workers.
- **The elements of the proposed Architecture of protection of human and trade union rights** should, therefore, include:
  - The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
  - The ILO Conventions on Migrant Workers, C97 and C143;
  - The ILO Declaration on Fundamental Principles and Rights At Work and its follow up;
  - The ILO Multilateral Framework on Labour Migration;
  - The Convention on the Elimination of All Forms of Discrimination Against Women, (CEDAW);
  - The Convention on the Elimination of All Forms of Racial Discrimination (CERD);
  - The Convention on the Rights of the Child) (CRC);
  - The Durban Declaration and Programme of Action of the 2001 UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
- Global Unions call upon Member States to ratify the relevant key Conventions, to incorporate them into national-level legislative frameworks and labour agreements, and to fully implement them.
- Ratification and effective implementation of these Conventions will guarantee migrant workers their fundamental rights to join trade unions and benefit from collective bargaining contracts. The right to freedom of movement as well as to equal treatment with nationals with respect to hours of work, pay, minimum age of employment and social security benefits will also be guaranteed.
- In addition to combating child labour through application of the Minimum Age Convention 138 and C182, CRC (Convention on the Rights of the Child) must be fully applied. Measures must be taken to ensure that the children of migrant families have full rights to quality education. To that end, public schools should be fully resourced, both in human and financial terms.
- In keeping with commitments made under CEDAW, and ILO Conventions 100 and 111, policies of destination countries must address all issues related to gender-based discrimination and exploitation of migrant women workers.

- In keeping with the UN International Convention on the Protection of the Rights of All Migrants and Members of their Families, all necessary measures must be taken to facilitate the reunification of the families of migrant workers residing in the destination country.
- Governments must implement policies and programmes to prevent and combat racism and xenophobia, in keeping with the commitments made in the Declaration and Programme of Action of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
- The development dimensions of the architecture for the protection of human and trade union rights are of equal importance. They should be underpinned by the following goals:
  - Ensure the creation of decent jobs where people live, by promoting the ILO's Decent Work Agenda in employment policies in origin, transit and destination countries of migrants. In particular, incorporate this Agenda into the Development Frameworks at national level in origin developing countries;
  - Prioritize the provision of adequately funded quality public services, particularly in education and health, and social protections, to achieve the objectives of ensuring decent work and decent life, of stemming the brain drain, and achieving the Millennium Development Goals (MDGs) and other internationally agreed development goals;
  - Strive for policy coherence at national level, by engaging all relevant ministries (economic planning and population, cooperation for development, interior, labour) in the formulation of migration and development policies;
  - Strive for policy coherence on migration and development policies at international level, by strengthening coordination among agencies and entities with an economic, development, social, labour, and human rights mandate (ECOSOC, ILO, OHCHR, HCR, UNDP, UNIFEM, UNFPA, Human Rights Council, World Bank, IOM);
  - As an important dimension of policy coherence, frame migration policies around core labour standards, the migrant workers' Conventions (C97 and C143), and the attainment of decent work objectives in origin and destination countries;
  - Ensure that these global policy agendas support and not undermine national-level policy agendas, including decent work and the achievement of the MDGs.
- Within the framework of the human rights/development architecture, bilateral and multilateral agreements must include concrete commitments and monitorable goals, related to guaranteeing the well-being and protecting the rights of migrant workers and their families. Mechanisms to ensure legal channels for migration must be part of that process.
- Trade unions will continue to engage in processes on migration and development at global, regional and national levels, and in initiatives involving origin and destination countries of migrant workers.

- Trade unions will continue to explore best practice in migration initiatives by finessing a range of mechanisms including union to union partnership agreements, migrant centres and help desks, union passports, partnership agreements with relevant actors from governments, intergovernmental bodies, specialized agencies and the private sector, as well as NGOs and migrant associations.
- Trade unions will continue to establish dialogue and collaborate with civil society groups, as they play a critical role in promoting the rights of migrant workers. Trade unions are convinced that it is only through cooperation that a strong movement for migrant workers' rights can be developed.
- Consultative frameworks should be set up to allow for the genuine participation of trade unions and other civil society organizations in policy dialogues on migration and development. In this regard, a significant shift from current practice within the GFMD must include the institutionalizing of consultations with trade unions at the level of governmental and intergovernmental deliberations.
- The tripartite consultative framework of the ILO, involving governments, employers' representatives and trade unions should be fully utilized for framing migration policies at national, regional and global levels.
- The ILO's core competence in the application of standards for the protection of the rights of migrant workers should be recognized and utilized.
- The policy-making process on global migration and development is all about the provision of public goods in the guaranteeing of fundamental rights of migrant workers, as well as the right to development. Trade unions hold the view that it should not be privatized within a global forum operating outside of the UN framework. It should be part and parcel of the multilateral system with the UN at its core, and taking the lead in convening all the relevant actors for a policy dialogue, policy formulation and the setting up framework agreements on migration and development.
- Global Unions therefore call for the return of the global migration policy process to the United Nations as the best way of achieving policy coherence, and comprehensive, sustainable migration and development policies.