



ITUC Policy Brief: a new social contract for migrant workers

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Foreword

The world is facing a convergence of multiple crises that are having a devastating impact on people and the planet, exacerbating existing inequalities within and among countries. The effects of the Covid-19 pandemic are still with us, conflicts and violence are on the rise, the negative impact of climate change is accelerating, and democracies and the rule of law are increasingly under attack. This scenario makes decent work an illusion for many workers, including migrant workers.

Decent work deficits, xenophobia, racism and discrimination, conflicts, insufficient mitigation and adaptation to climate change – including inadequate responses to natural disasters – mean many people have no choice but to

accept substandard employment or undignified working conditions.

The current migration governance frameworks do not offer a solution to these challenges, and often end up creating an exploitable subgroup of workers.

A New Social Contract is more urgent than ever to create more inclusive societies and economies, where migrants and their families can work and live with dignity.

Workers call for a rights-based governance of migration that is designed, implemented and monitored through social dialogue and with international labour standards – such as freedom of association and collective bargaining rights – at the forefront.

Background: Statistics and Trends

At the end of 2020, the total number of international migrants was estimated to be 281m.¹ In 2021, the UN Refugee Agency (UNHCR) recorded 27.1m refugees and 4.6m asylum seekers.² This does not include the millions displaced due to the adverse impacts of climate change. Some 83 per cent of refugees are hosted in low and middle-income countries with 72 per cent living in a country neighbouring their country of origin.

According to the International Labour Organisation (ILO), there were 272m international migrants worldwide in 2019, 169m of whom were migrant workers.³ Women constitute 41.5 per cent of migrant workers globally; but their share in certain regions is much lower, reducing to 17.5 per cent in Arab states.⁴ Factors contributing to a lower number of women among migrant workers include gender discrimination (in origin and destination countries) and difficulties in finding care support for family members in order to go out and work in a foreign country.

¹ McAuliffe, M. and A. Triandafyllidou (eds.), *World Migration Report 2022*. International Organization for Migration (IOM), Geneva, 2021.

² UNHCR, *Global Trends: Forced Displacement in 2021, 2022*.

³ ILO, *Global Estimates on International Migrant Workers – Results and Methodology*, 3rd edition, 2021

⁴ ILO, *Global Estimates on International Migrant Workers – Results and Methodology*, 3rd edition, 2021

The majority of migrant workers are in the services sector, with 79.9 per cent of women working in the sector compared with 56.4 per cent of men. While the majority of international migrant workers are in high-income countries, this is a global phenomenon impacting all countries regardless of their income level. More than 60 per cent of migrant workers live in northern, southern and western Europe; north America and Arab states.⁵ However, many countries are both destination and origin countries simultaneously.

Many migrants move within their own region. For example, most international migrants from west and central Africa move within the subregion for economic reasons, while intraregional migration has grown in east and southern Africa over the years, potentially due to the integration efforts such as the East African Common Market Protocol or the Southern African Development Community. In Asia, intraregional migration is estimated to have increased from 35m in 1990 to 69m in 2020. In South America, about 80 per cent of migrants are moving to other countries within the region.⁶

The Current Social Contract is Failing Migrant Workers

Migrant workers contribute to the economies of both their destination country as well as to their country of origin through remittances. In December 2022, for example, the International Monetary Fund published research estimating that “with the right support and integration policies, migration from Venezuela has the potential to increase real GDP in Peru, Colombia, Ecuador and Chile by 2.5 to 4.5 percentage points relative to a no-migration baseline by 2030.”⁷ In Africa, an ILO/OECD study showed migrants’ positive impact on economic growth, employment rate of native-born workers and public finance.⁸

For example, in Cote d’Ivoire, immigrants’ contribution to GDP represents up to 19 per cent⁹ while in Ghana, migrants’ contribution to “the government’s fiscal balance exceeds the contribution of native-born population (on a per-capita basis).”¹⁰

The Covid-19 pandemic has also shown the important role migrant workers play in our economies and societies as they carry out essential jobs on the frontline. Rather than acknowledge the societal benefits of migration, however, many governments still frame migration as a threat on the grounds of security concerns, coupled with xenophobic arguments on migrant workers “stealing jobs” or being

⁵ ILO, *Global Estimates on International Migrant Workers – Results and Methodology*, 3rd edition, 2021

⁶ McAuliffe, M. and A. Triandafyllidou (eds.) *2021 World Migration Report 2022* IOM

⁷ IMF, *Regional spillovers from the Venezuelan crisis: migration flows and their impact on Latin America and the Caribbean*, prepared by Jorge Alvarez, Marco Arena, Alain Brousseau, Hamid Faruqee, Emilio Fernandez-Corugedo, Jaime Guajardo, Gerardo Peraza, and Juan Yépez Albornoz, 2022. Reference from <https://www.imf.org/en/News/Articles/2022/12/06/cf-venezuelas-migrants-bring-economic-opportunity-to-latin-america>

⁸ OECD/ILO, ILO, Geneva/OECD Publishing, Paris, *How Immigrants Contribute to Developing Countries’ Economies*, 2018.

⁹ OECD/ILO, ILO, Geneva/OECD Publishing, Paris, *Comment les immigrants contribuent à l’économie de la Côte d’Ivoire*, 2018.

¹⁰ OECD/ILO, OECD Publishing, Paris, *How Immigrants Contribute to Ghana’s Economy*, 2018.

a drain on the taxpayer. In many cases over the past decades of neo-liberal policy making, such a narrative has provided a useful tool for governments to use migrants as a scapegoat for their own policy failings. Such an approach only pushes migrants to more risky routes and renders them vulnerable to serious rights violations and exploitation.

Migrants are “more likely to be concentrated in low-paid, precarious, informal work and excluded from social protection”,¹¹ which exposes them to “poverty, social exclusion and social insecurity.”¹² Women migrant workers, who are overrepresented in the informal economy, are even more exposed to vulnerable conditions.¹³ While migrant workers overall earn about 12.6 per cent less than nationals in high-income countries, migrant care workers – the majority of whom are women – earn about 19.6 per cent less than non-migrant care workers.¹⁴

Migrant workers are more than three times more likely to be in forced labour than non-migrant workers, whether because of irregular or poorly governed migration, or unfair and unethical recruitment practices.¹⁵ While it is estimated that 4.1 of every thousand non-migrant workers are in forced labour in the private economy, this rises to 14 of every thousand among migrant workers.¹⁶

Migrant workers are also more exposed to unsafe and unhealthy working conditions compared to their non-migrant counterparts. According to an analysis of ILO statistics, “the incidence rate of fatal occupational injuries was higher for migrant workers than for non-

migrant workers” in 73 per cent of the countries where such data on work-related fatalities was available.¹⁷

Despite the rights violations and exploitation, migrant workers have little to no access to justice. Many find it impossible to complain about their working conditions or demand just wages, rest periods, sick leave, holiday and measures for health and safety at work, because they fear retaliation from employers, which may lead to immigration detention and deportation. As a result, many see no alternative but to endure conditions that fall far below those required by national laws, through collective bargaining or by international labour standards, and find themselves trapped in exploitative conditions, violence and harassment.¹⁸

In the absence of national laws and regulations that protect migrant workers’ rights and without effective enforcement, where such laws exist, current migration governance frameworks that lack coherence with labour, development and just transition policies create an unprotected, easily abused and exploited workforce. This fuels poverty, exclusion and exploitation, and lowers standards for all workers.

Trade unions call for a New Social Contract globally, which aims at putting “the economy in the service of humankind and save people and the planet from the threat of destruction”.¹⁹ This includes all migrant workers everywhere regardless of their status or employment relations.

¹¹ ITUC, News: [International Migrants Day: migrants, refugees, and asylum-seekers are welcome](#), 2022.

¹² ITUC, [Economic Briefing: Ensuring Migrants’ Access to Social Protection](#), 2021.

¹³ See, for example, UN Women, [Women Migrant Workers’ Human Rights](#), 2015.

¹⁴ ILO, [The migrant pay gap: Understanding wage differences between migrants and nationals](#), 2020.

¹⁵ ILO, Walk Free and IOM, Geneva, [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#), 2022.

¹⁶ Ibid, [Global Estimates of Modern Slavery](#), 2022.

¹⁷ ILO, [Covid-19 and the New Meaning of Safety and Health at Work](#), 2020.

¹⁸ See, for example, PICUM, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers have Access to Justice](#), 2020.

¹⁹ ITUC, [A New Social Contract: Congress Statement](#), 2022.

A New Social Contract for Migrant Workers

ITUC's call for a New Social Contract is founded on six workers' demands: (1) climate friendly jobs; (2) rights for all workers; (3) wages; (4) universal social protection; (5) equality; and (6) inclusion.

CLIMATE-FRIENDLY JOBS WITH JUST TRANSITION

ITUC is calling for 575m new jobs and the formalisation of at least half of all two billion informal jobs by 2030.²⁰ This demand is significant for migrant workers, as they make up one of the groups most impacted by the loss of jobs and income equality exacerbated by the Covid-19 pandemic.

Additionally, two billion men and women “make their living in the informal economy”.²¹ This represented 62 per cent of all workers in 2020.²² While there is a lack of reliable data at a global level, it is expected that this percentage is higher among migrant workers and more so among women migrant workers. Investment in the care economy, where migrant workers – in particular women migrant workers – are overrepresented is key to decent job creation and formalisation.²³ According to ILO projections, increased investments in the care economy would create 280m jobs by 2030 and boost the employment rate of women by 78 per cent with 84 per cent of the jobs being formal.²⁴

Workers' demands for job creation and formalisation go hand-in-hand with the call on governments to prioritise regularisation schemes for migrants in irregular situations and to increase **rights-based regular migration pathways for migrants and refugees**.²⁵ These pathways should involve humanitarian resettlement options and other rights-based channels, which allow migrants freedom to move, settle, work and fully participate in society, instead of temporary or circular work programmes that lead to precarity and undermine decent work.²⁶

Climate change is accelerating, destroying lives and livelihoods, generating extreme weather events, annihilating habitats and creating additional risks to health, which are forcing millions to move within or outside their countries each year.²⁷ Governments must also create rights-based pathways for climate-driven migration that ensure access to decent job opportunities. The global labour movement demands a plan for just transition to low-carbon economies that provides and guarantees better and decent jobs, social protection, more training opportunities and greater job security

²⁰ The New Social Contract, fn. 1, para 50(iii).

²¹ ILO, *Women and Men in the Informal Economy: A Statistical Picture*, April 2018, p.1.

²² ILO, *Covid-19 Crisis and the Informal Economy*.

²³ ITUC, News: *International Migrants' Day*, 2022.

²⁴ ITUC, *Putting the Care Economy in place: Trade Unions in Action Around the World*, 2022.

²⁵ While it is difficult to measure the number of migrants in an irregular situation, according to ILO “a cautious estimate points to about 58m migrants who are in an irregular situation.” ILO, *Protecting the rights of migrant workers in irregular situations and addressing irregular labour migration: A compendium*, 2022.

²⁶ For human rights violations and decent work deficits stemming from temporary labour migration programmes, see OHCHR, *We wanted workers, but human beings came*, 2023.

²⁷ See, for example, UNHCR, *Climate Change and Displacement: Background Guide Challenge Topic #2*, 2021.

for all workers affected by global warming and climate change policies.

In this respect, the UN Migration Network Guidance on bilateral labour migration

agreements – developed through an ILO-led consultative process – can help guide states entering into migration related agreements to promote decent work for migrant workers.²⁸

RIGHTS FOR ALL WORKERS

The New Social Contract's call for rights encompasses all workers regardless of their migratory status. This would include migrant workers in a temporary status as well as those in an informal situation. While governments must respect, protect and fulfil human and labour rights of all workers under their jurisdiction, it is specifically crucial for migration governance systems at national, regional and global level to be designed using a rights-based approach with a particular focus on:

- The right to freedom of association and collective bargaining.
- The elimination of forced or compulsory labour.
- The abolition of child labour.
- Non-discrimination in employment and occupation including with regards to wages and access to social security, including portability of social security entitlements and life-long learning opportunities.
- Safe and healthy working environments.
- The right to a world of work free from violence and harassment.

- An adequate minimum wage (statutory or negotiated).
- Maximum limits on working time.
- Fair recruitment.
- Access to effective remedies for any labour rights violations, including wage theft (effective and accessible channels to lodge complaints and seek remedy without discrimination, intimidation or retaliation).
- Freedom to move within and to leave a country.
- Freedom to terminate their employment and change employers.

Access to rights requires concrete status protections for migrant workers when they exercise their rights and take action to enforce labour and employment laws. A precarious migratory status prevents migrants seeking justice and remedies against human rights violations they face. A clear separation of roles between migration enforcement authorities and labour inspection and justice mechanisms is crucial to ensure that migrant workers can complain and speak up about abuses.

Freedom of association and collective bargaining empower migrant workers to access rights at work and beyond.²⁹ For example, lack of freedom of association and collective

²⁸ UN Network on Migration, Guidance on Bilateral Labour Migration Agreements, 2022.

²⁹ New Social Contract, para 65(iv).

bargaining highly limits workers' ability to influence working conditions or seek justice in cases of exploitation. Despite this, however, an increasing number of countries are imposing new restrictions in law and in practice on freedom of association for migrants and their defenders.³⁰

In 2021, 32 countries – that is 20 per cent of the countries surveyed by ITUC for its Global Rights Index³¹ – had adopted legislation prohibiting migrants from establishing or joining trade unions, restricting migrants' ability to hold office in a trade union or otherwise denying them full rights to engage in union activities. For example, in the Middle East, migrant workers

– who represent the majority of the workforce – still largely fall under the kafala system and are excluded from the right to freedom of association and collective bargaining.³²

Other countries exclude large sectors dominated by migrant workers, such as agriculture, construction, domestic work or work in export processing zones, from existing legal protections for union activities, while others restrict trade union membership to workers in the formal sector. Such restrictions of migrants' freedom of association hinder their enjoyment of other rights including fair working conditions as well as legal assistance, health care, housing and education.

MINIMUM LIVING WAGES FOR ALL WORKERS AND WAGE JUSTICE

Workers demand minimum living wages, established through statutory processes or collective bargaining and applied to all workers, including migrant workers. This is especially important for workers in informal economy, domestic work and self-employed sectors,³³ in which migrant workers are concentrated.

According to an ILO report in 2020, migrant workers in high-income countries earn, on average, about 12.6 per cent less than nationals.³⁴ This gap is even larger with an average of about 19.6 per cent between migrant workers and non-migrant workers in the care economy dominated by women showing the gendered nature of the migrant pay gap.³⁵

Migrant workers are not only forced to accept egregious underpayment for their labour, but many also are unable to receive all or part of their wages.³⁶ Systemic wage theft faced by migrant workers only worsened during the Covid-19 pandemic. According to a study published in 2021, 39 per cent of 2,252 Indian migrant workers repatriated from the Middle East during the first wave of the pandemic reported not having been able to recover their unpaid wages.³⁷ Migrant workers also face unlawful deductions from their wages, including to cover recruitment fees. For example, Ethiopian migrant workers paid an average of 14,200 Ethiopian birrs (US\$650) as a recruitment fee, which represents 17 per cent of their overall annual wage or the equivalent of slightly more than two months' worth of wages.³⁸

³⁰ Report of the Special Rapporteur on the human rights of migrants: [Right to Freedom of Association of Migrants and their Defenders](#), 13 May 2020, para 24.

³¹ [ITUC Global Rights Index 2021](#).

³² This is the case in the United Arab Emirates where the almost eight million migrant workers suffer severe and frequent labour abuses, with poor enforcement of regulations and with workers' freedom to change employer curtailed. Research ITUC has commissioned with migrant workers from Indonesia also shows that 80 per cent do not have access to unions. See Yoga Prasetyo, [Realizing Fair and Ethical Recruitment: insights from Indonesia](#), 2022.

³³ [New Social Contract](#), para. 72(vii).

³⁴ Silas Amo-Agyei, [The Migrant Pay Gap: Understanding Wage Differences Between Migrants and Nationals](#), ILO, 2020, page xiii.

³⁵ *Ibid.*

³⁶ Bassina Farbenblum and Laurie Berg, [Migrant Workers' Access to Justice for Wage Theft: A Global Study of Promising Initiatives](#), 2021.

³⁷ S. Irudaya Rajan and C.S. Akhil, [IIMAD Policy Brief: Empty Handed and Demoralized: New Evidences of Wage-Theft among Indian Return Migrants during COVID-19](#), 2021.

³⁸ Lindgren, Uaumnuy and Emmons, [Baseline Survey: Improved Labour Migration Governance to Protect Migrant Workers and Combat Irregular Migration in Ethiopia Project](#), 2018.

There is ample evidence that wage injustice against migrant workers draws wages down for everyone. As such, demanding just wages for migrant workers and ensuring that they are protected from wage theft is for the benefit of all workers.

Unions globally are pushing governments to set up measures that truly disincentivise businesses that commit wage theft as well as those that do not comply with relevant administrative or

judicial decisions. This includes measures that hold to account businesses throughout the supply chain. Governments must also create wage recovery mechanisms with firewalls to immigration enforcement; make free legal aid accessible to migrant workers to assist with wage theft and recovery claims; and devise strong regulation of recruitment agencies in particular to prevent wage deduction in the name of covering recruitment fees.

UNIVERSAL SOCIAL PROTECTION

The New Social Contract calls for universal social protection and the establishment of a global Social Protection Fund for the least wealthy countries. Migrants and their families must be part of social protection policies and schemes, both in origin countries upon return as well as in the destination countries in which they work.

Migrants are disproportionately excluded from social protection,³⁹ which heightens their risk of falling into poverty. According to the World Bank, 22 per cent of migrants are excluded from all social protection arrangements in both destination and origin countries, while

55 per cent have access to social protection only in destination countries but have lost entitlements in origin countries.⁴⁰

In dialogue with social partners, governments must take measures to allow portability of social benefits between countries. Destination countries can particularly benefit from extending the contributory schemes to cover migrants, as their contributions can help increase the financing base for these schemes, as well as enlarge the pool of contributors and beneficiaries for greater collective risk sharing. However, to do this, barriers to migrants' full participation in the labour market must be effectively addressed, as well as their access to social protection.⁴¹

EQUALITY

Workers demand equality of treatment for migrant workers, which includes equal access to employment, vocational training and education, job promotion and advancement, job security, equal pay for work of equal value and safe conditions of work.

Discrimination and unequal treatment in particular impacts millions of women, who are migrating each year to take up jobs as care or domestic workers (ITUC 2019). Despite the clear social and economic contributions migrant domestic and care workers make, domestic work – including domestic care work provided

³⁹ ILO, *Conclusions of the 2021 International Labour Conference Recurrent Discussion on Social Security*, 2021, para 8.

⁴⁰ World Bank, *Definitions, Good Practices, and Global Estimates on the Status of Social Protection for International Migrants*, 2009.

⁴¹ ITUC, *Economic Briefing: Ensuring Migrants' Access to Social Protection*, 2021.

by workers – is not recognised in many countries as formal work with legal rights and benefits. This exposes migrant women working in this sector to rights violations including harassment and violence.⁴²

The ratification and implementation of key ILO Conventions such as C189 on Decent Work for Domestic Workers and C190 on Violence and

Harassment are fundamental to protect and fulfil the rights of migrant workers.

Likewise, the ratification and implementation of C111 is fundamental to fight employment and occupational discrimination, including putting in place monitoring and measuring systems to eradicate any form of discrimination at the workplace.⁴³

INCLUSION

The final pillar of the workers' call for a New Social Contract is inclusion. This refers to the need to remove the colonial structural framework of the world's financial and trade systems that deny prosperity to billions of people.

The power imbalance between destination and origin countries provide the latter with little leverage to push for strong protections of their citizens working abroad and enforcement of their rights. As such, we need to put in

place negotiated migration frameworks that develop a floor of protections based on the ILO's international labour standards.

Tripartite mechanisms with social partners' full participation in building fair migration governance frameworks should be granted at all stages. Social dialogue, freedom of association, the right to organise and collectively bargain are key enablers to foster inclusive workplaces, development and societies.

Union Demands from Governments

Governments must take specific measures relating to migration to prevent migrant workers from becoming an underclass of workers rendered vulnerable to abuse and exploitation.

Workers demand a rights-based governance of migration with labour standards at the forefront that is designed, implemented and monitored through social dialogue. This requires, first and foremost, governments to:

- **Ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), ILO Conventions 97 and 143.**

⁴² ITUC, *Putting the Care Economy in place: Trade Unions in Action Around the World*, 2022.

⁴³ See Thomas Piketty, *Measuring Racism, Overcoming Discrimination*, June 2022.

- Respect the ILO's Declaration on Fundamental Principles and Rights at Work for all workers, including by closing regulatory gaps, and setting up and strengthening monitoring systems (labour inspections among others) to ensure employer compliance with labour standards.
- Effectively protect the right to freedom of association, to organise and collectively bargain.
- Regulate recruitment and temporary employment agencies, in line with international labour standards and taking into account the ILO General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs, as well as by ensuring effective sanctioning and penalties for unethical and abusive practices.
- Remove barriers to migrants' access to social security and ensure equal treatment in social security between nationals and migrants.
- Create regularisation schemes for migrants in an irregular situation.
- Scale up regular and gender-sensitive migration pathways and humanitarian resettlement – including for those fleeing adverse impacts of climate change – with full workers' rights and non-discrimination, including meaningful opportunities for acquiring permanent status and citizenship.
- Lift restrictions on migrant workers from bringing their families –particularly those with low income – to enable them to enjoy their right to family life.
- Invest in a well-regulated care economy with formal, adequately remunerated and decent jobs, safe working conditions, free from gender-based violence and harassment, and covered by social protection.
- Ensure effective access to justice including by setting up firewalls between labour enforcement, and justice and immigration enforcement mechanisms as well as by ensuring concrete status protections for migrants who exercise their rights and help enforce labour laws.
- Provide equal access to skills development, training and lifelong learning for all regardless of migration status and set up mechanisms for mutual recognition of skills and qualifications in countries of origin and destination.
- Break silos between migration, labour, development, social, non-discrimination and just transition policies to ensure policy coherence and use social dialogue in all migration and labour-related policy decisions and implementations.
- Render migration a choice by tackling decent work deficits, conflicts and climate change in countries of origin.

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