

GOVERNANCE OF MIGRATION

Despite the existence of international Conventions and standards, there is no clear institutional framework dealing with migration at global level. The lack of global governance creates a situation in which states formulate unbalanced migration policies prioritising security concerns or economic interests over their human and labour rights' obligations.

The global debate on migration must take place within the normative framework of the UN system. Multilateralism places countries of origin and destination on an equal footing, preventing economically less powerful states from being forced to accept the rules and conditions created by stronger states.

Trade unions and migrants organisations must be closely associated in the formulation and implementation of migration policies at all levels. Trade unions play an important role to ensure that migrant workers' rights are respected both in law and in practice.

Organizing migrants into trade unions reduces exploitation and strengthens workers' bargaining power.

The 2013 UN High-Level Dialogue on Migration and Development is an opportunity to redress the deficits in the current system and put the ILO, the only UN agency with a constitutional mandate to protect migrant workers, at the centre of a multilateral governance mechanism, reaffirming the centrality of decent work in migration issues.

An international legal framework

The ITUC promotes a rights-based approach to migration such as enshrined in the UN system. Key international instruments include:

- 1990 UN Convention on the Rights of all Migrant Workers and the Members of their Families
- ILO Migration for Employment Conventions No. 97 and 143
- ILO Convention on Domestic Workers No. 189
- ILO Recommendations No. 86 and No .151
- ILO Multilateral Framework on labour migration
- CEDAW General Recommendation on migrant women No. 26

The International Trade Union Confederation (ITUC) is the main international trade union organisation, representing the interests of working people worldwide. It represents 175 million workers in 153 countries and territories and 308 affiliated national trade union centres.

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**Labour migration:
A decent work issue!**

MIGRANTS' RIGHTS ARE WORKERS' RIGHTS!

There are 215 to 220 million international migrants
That is 3% of the world's population
33% migrate between developing countries
38% leave developing for industrialised countries
29% consist of migration originating from industrialised countries
50% of migrants are women

Workers are moving from one country to another all over the world, all of the time. International migration affects all countries and will continue to grow in the coming years. The lack of decent work opportunities in countries of origin, family reunification, corporate globalisation, poverty and climate change are among the main causes of migration.

The construction of walls, the militarisation of borders and the criminalisation of migrants have not, and will not stop the flow of international migration.

The huge deficit of care and health workers at global level has been the driving force behind the fact that more and more women are migrating. Migrant women are at higher risk of abuses, discrimination and trafficking.

Gender aspects must be considered in migration policies.

Migrants' rights are workers' rights and they must be enforced. Under international treaties, States have an obligation to protect the human and labour rights of all migrant workers and in particular:

- The right to form and join a trade union
- The right to equal treatment and non-discrimination at the workplace
- The right to access to courts, including labour courts, and other grievance mechanisms

The non-enforcement of these rights creates injustice and exploitation for migrant workers and induces a downward pressure on working conditions for all workers.

Trade unions warn against the danger of temporary and circular migration programmes becoming a permanent trend. Temporary migration must not be used as a way to lower wages and working conditions or fulfil permanent jobs in countries of destination, or as a way to deplete countries of origin of their human resources. Temporary and circular migration programmes that violate human and workers' rights and don't respect the principle of equal treatment must be opposed.

Labour is not a commodity!



MIGRATION – A CHOICE

Unequal development is a root cause of migration. Current migration flows need to be understood in the context of global economics and the structural inequalities it creates. The dismantling of production chains, deregulation and liberalisation of finance, commerce and services systems have left many jobless, especially in developing countries, forcing them to emigrate to survive.

Trade unions support the concept of a “right not to migrate”. By prioritising the creation of decent jobs and quality public services at home, governments can reduce inequalities, promote development and ensure that migration takes place out of informed individual choice rather than out of dire necessity.

GLOBAL LABOUR MARKETS

Opening legal avenues for migrant workers should be promoted when it is backed by genuine tripartite (i.e. workers, employers and governments) analysis of labour market shortages and/or of demographic trends.

Trade unions see little benefit in the current state of labour markets which grants migrant workers differentiated treatment and protection depending on the level of their skills. The ITUC objects to policies that provide highly skilled workers with a wider set of rights and benefits leaving lower skilled migrants at a disadvantage, sometimes even deprived of their most fundamental rights.

Migration policies must be mindful of the “brain drain effect” as skilled labour leaves developing countries, depleting them of highly needed human resources for their economic and social development. Particular attention should be paid to the “brain waste” or the under-utilisation of migrants' skills and qualifications in countries of destination.

Policies to promote collective bargaining and improve the quality of jobs are essential to prevent both local and migrant workers from being trapped in the vicious cycle of low-paid, low-skilled jobs. Putting in place education and

training policies adapted to migrants' skills levels and responsive to the needs of both present and future labour markets are essential to enhance national productivity and ensure the full integration of migrants in their new home countries.

RECRUITMENT OF MIGRANT WORKERS

Governments increasingly opt for new and cheaper ways to organise labour mobility and delegate responsibilities to non-state actors. Labour brokers and middlemen are often involved in transnational recruitment. Largely unregulated and unmonitored, recruitment and placement agencies play a crucial role in the surge of new forms of forced labour.

There is an urgent need to better monitor the recruitment of migrant workers.

In addition to the respect for labour rights, those involved in the recruitment of migrant workers must not charge fees to workers, not withhold their identity documents, give accurate information about employment contracts and conditions, secure a direct payment of wage and enforce the principles of non-discrimination and equal treatment.

NO PAPERS BUT RIGHTS

Despite all barriers, irregular migration has grown in recent years in virtually every country. The labour and human rights of undocumented migrant workers are protected under international treaties. The UN Convention and the ILO Convention No 143 provide for the principle of equal treatment with regards to wages, working conditions and employment-related social protection and benefits for all migrant workers, regardless of their status. Failure to recognise that right creates exploitative work situations and puts a de facto downward pressure on working conditions in the sector concerned.

Workers in an irregular situation are particularly vulnerable to abuse and exploitation.

Fear of deportation prevents them from seeking legal redress when their rights are violated or to form or join trade unions. Undocumented migrant workers should never undergo penal sanctions for administrative misdemeanours.

Legal assistance and accessible grievance mechanisms should be available in order to encourage undocumented workers to seek remedy when they have been victims of abuse.

The regularisation of undocumented workers is in practice, an important tool to put an end to exploitation and abuses. Long-staying irregular migrants must be offered a chance to earn regular status!