

## 2015 Global Forum on Migration and Development

LABOR MIGRATION FEEDS THE GLOBAL ECONOMY. There are approximately 247 million migrants in the world, with the overwhelming majority migrating for work. They are domestic workers, construction and agricultural workers, factory and service workers, teachers, nurses and professionals. They often travel long distances, due to a lack of decent work at home, seeking opportunities to support their families, improve their income and build a better life. How these workers move and under what terms are critical questions for global economic and social development.

Governments must address a fundamental question that implicates the entirety of the global labor market: How should people be treated as they move from their communities and cross borders to work? Unfortunately, after many years of involvement in Global Forum on Migration and Development (GFMD) processes, the labor movement considers that deliberations within the Global Forum tend to turn a blind eye to critical issues of labor rights, decent work, social inclusion

and human development. As origin and destination country governments have become dependent on migrant workers for their labor and remittances, states and corporate interests have sought to “manage” the movement of migrants like everyday commodities in temporary, seasonal and circular migration programs that limit worker rights and drive down wages.

With poverty and violence driving more and more families from their homes, xenophobic forces have pushed for the further criminalization of undocumented workers and their families, more border controls and detention, and nativist exclusion with disastrous and often deadly results. Meanwhile, the Global Forum has proved to be an effective echo chamber for the purported benefits of managed labor migration programs, while effectively limiting the scope of analysis and action around development and the root causes of forced migration and displacement. The Global Forum’s promotion of temporary migration programs as a development solution is detrimental to workers and their families.



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The Global Unions and labor delegation at the 2015 GFMD urge governments to reorient their deliberations to encompass a rights-based shared prosperity agenda for global migration that creates decent work, raises wages for all workers, and promotes cooperation and global governance on migration issues that emphasizes human and labor rights and inclusive development. We put forward the following positions on today's pressing global migration issues in the hopes that they will contribute to broader civil society and government dialogues that put the rights of working people and their families at the center of the analysis.

### **International Labor Recruitment**

There is a growing consensus among government, business and civil society that the labor recruitment industry is in dire need of reform. Because international labor recruitment cuts across borders, the regulation of recruitment must occur at a global level through a legally enforceable, rights-based framework. Recruitment abuse—including fraud, debt bondage and trafficking—occur too frequently in all sectors of the economy and in origin, transit and destination countries. Currently, regulation of the industry varies widely, and even where regulation does exist, it often falls short of international standards. Workers in all regions of the world and nearly all sectors of the economy still are subject to abuses, particularly when they must pay recruitment fees in order to receive a job offer.

In migration and development terms, fair recruitment practices are critical in ensuring sound migration and employment outcomes for migrant workers. If we assume wage gaps between origin and destination countries drive a sizeable portion of global labor migration, then worker-paid recruitment fees eat away at potential income gains and money remitted back home. The recruitment and placement industry is a \$464.3 billion-a-year industry. In comparison, global remittances are estimated to total \$540 billion by 2016. While employment services can play a role in aiding workers maximize their skills and match them to potential employers, reducing worker-paid migration costs and eliminating worker-paid recruitment fees in line with international standards would greatly enhance economic outcomes for migrant workers and their families—and also help to reduce their vulnerability to exploitation and trafficking.

States must commit to transnational cooperation to eliminate worker fees, ensure access to justice, and regulate the industry to ensure migrants receive equal rights and protections. They should work through the Fair Recruitment Initiative of the International Labour Organization (ILO), a multistakeholder program that aims to prevent human trafficking and forced labor and protect workers from abusive and fraudulent practices during the recruitment process. The ILO has a unique advantage in addressing this transnational issue, as it must take a standards-based approach and include the social partners in its programming. Trade unions, rights-based NGOs and transnational migrant networks already are working across borders to disseminate knowledge, identify organizing strategies and best practices, and develop tools for migrants to easily access information and support in all stages of the migration process.

We call on states to ensure that internationally recruited workers are guaranteed the following rights and freedoms:

- Freedom from discrimination and retaliation in their recruitment and employment;
- Right to be informed in a language they understand about the recruitment process and their rights under work visa programs before leaving their origin communities;
- Freedom from economic coercion at all points in the chain of recruitment—workers shall not be charged fees;
- Right to receive a legally binding employment contract with fair terms, and the right to give informed consent;
- Right to be recruited for work under a transparent and legally enforceable system that holds all actors in the chain of recruitment accountable for any and all abuses suffered during recruitment or employment;
- Right to move freely and change employers while working in the destination country;
- Right to form and join unions and worker organizations, to associate freely, and to bargain and advocate collectively to promote rights and interests; and
- Right to speedy access to justice for abuses suffered under work visa programs.

### **Labor and Employment Policy**

Today, not only do we face an economic crisis, we have a global jobs crisis, characterized by deeply concerning high youth unemployment and an alarming rise in precarious work—in the form of part-time, contract, informal, irregular or temporary jobs. These are low-wage jobs with no security and without

access to social benefits. A large proportion of precarious workers are migrant workers, women and young workers. This dynamic is exacerbated by the proliferation of temporary labor migration programs, which necessitate short-term, temporary employment models. Temporary work visas often are disproportionately used by temporary staffing and outsourcing agencies, a precarious employment model that has dramatically increased globally, spreading to all sectors and occupations, including those that used to employ workers directly. Not only do temporary agency workers typically receive lower pay and fewer benefits, they generally lack the ability to exercise their rights, to join trade unions and to bargain collectively with their employers. Temporary labor migration programs also are used often when work is not temporary or short term, creating a cycle of unsafe and unfair migration for workers while artificially suppressing wages in entire sectors and creating permanent labor shortages. On many occasions, trade unions have seen on the ground how temporary labor migration programs violate migrant workers' fundamental rights, facilitate low-road employment models, generate unfair competition and undue rivalries between migrant and local workers, and indeed undermine the rights and welfare of local communities.

Primarily, it is the responsibility of states to ensure that migrant workers, regardless of status, are informed and are able to claim their labor rights, in particular the rights to freedom of association, collective bargaining, equal treatment and social protection, and we need to ensure they are protected when they report abuses and violation of their rights.

Employment strategies should aim to raise global living standards by creating decent work and faster wage growth in industrializing economies rather than reducing wages in industrialized nations through precarious work and temporary labor migration programs. Trade unions, employers and civil society organizations must be involved in the design and implementation of migration mechanisms and employment policies.

### **Refugees and Migrants in Crisis**

Leaders in the United Nations, including the UN High Commissioner for Refugees and the Special Rapporteur on the Human Rights of Migrants, have called for a common global strategy to handle the massive flow of people displaced

by violence, war, poverty, climate change and persecution. There are 60 million displaced people globally, and less than 20% are knocking on the doors of the industrialized world. The labor movement backs a UN call for Europe to accept, initially, up to 200,000 migrants, and for European countries to work together to handle the inflow of people from the Middle East and Mediterranean. Likewise, the countries in the Gulf and North America, which are among the world's richest countries and are deeply engaged in conflicts in the Middle East, also must accept a fair share of refugees. It should be noted, too, that North American governments likewise have failed to develop a comprehensive strategy to address Central American families fleeing violence and repression in their communities.

Developed countries must be prepared to accept substantial numbers of people and ensure they are able to integrate fully and quickly in their new countries, including with the right to decent jobs and social protection. Those fleeing persecution must be afforded due process to avoid refoulment. Expedited legal processing and removal must be eliminated to ensure no one is removed from the country without adequate opportunity for a hearing. States also must discontinue discredited child and family detention programs. International human rights guidelines hold that detention is never in the best interest of the child. Wherever possible, children should be released to the custody of family members while their cases are being processed.

Most importantly, developed countries need to work together to address the root causes of mass displacement, including revisiting failed trade policies and implementing more effective and targeted strategies to eradicate the violence, poverty and repression that is driving so many from their home, not only in the Middle East-North Africa region, but also in the Americas and Southeast Asia.

### **Xenophobia and Discrimination**

Around the world, migrants are being used as scapegoats for the loss of jobs, decreasing public services and failure to provide adequate social protection. We are seeing tougher and more restrictive immigration policies, border controls, and detention and deportation programs, all of which strengthens the hand of abusive employers, traffickers and smugglers. Right-wing groups are sowing fear of immigration and are

scapegoating migrants—to the extent of revoking birthright citizenship in some cases—as a strategy to win votes. Instead of initiating social policies and public services that promote inclusion, governments are focusing on security and have increased funding toward immigration enforcement, detention and deportation in the midst of austerity and unemployment. As migration crises in Europe, Southeast Asia and the Americas have demonstrated, these policies too often produce devastating and sometimes deadly results for migrants.

In the labor market, too, the brunt of the impact has been borne by migrant workers, who face the highest rates of wage theft, sexual harassment, and death and injury on the job. Threats of deportation often are enough to chill worker activism. This system essentially has granted employers de facto immigration enforcement authority, and placed significant obstacles on immigrant workers' ability to exercise labor rights, secure formal employment or achieve equality in the workplace.

Trade unions urge governments to take the necessary measures to ensure migrants are protected from xenophobia and discrimination in employment, at the workplace and in all social spheres. Unions call for the full respect of the principle of equal treatment between national and migrant workers with regard to access to employment-related social protection schemes. Further, states must expand opportunities for migration that provides citizenship routes and limit temporary migration schemes that deny rights, separate families and create a second-class of often racially or culturally "different" workers in the host country.

## **Sustainable Development**

Worker rights are absolutely central to sustainable development and the building of peaceful, just societies. Vulnerable workers, including migrant workers, not only are excluded from the benefits of economic growth, but are caught in an economic system that allows for easy exploitation and provides little access to justice. Deteriorating labor conditions affect not only the most vulnerable workers, but also cause whole societies to suffer, as citizens are deprived of what is essential for their basic survival and development, and thus become unable to participate freely in social, economic and political life. Workers' stifled civic

participation cedes space to unconstrained power, which—whether public or private in origin—threatens human rights and chokes civil society and democracy.

To reverse this trend, governments must embark on policies and cooperation measures that not only address the conditions under which migrant workers and their families migrate, but also the root causes of why people migrate. Policies toward sustainable human, social and economic development, including respect of rights, access to decent work and quality public services are important in order to protect the "right to stay." Migration should be a choice, and no one should have to leave their family and community behind or be denied the right to raise their children for lack of decent work. Further, migrant remittances are neither an answer to development nor an appropriate policy for poverty reduction.

The debate on migration and development must focus on the creation of decent jobs in both countries of origin and destination. Development efforts are undermined by the fact that migrants tend to be employed under less favorable conditions than local workers. States must avoid making temporary labor shortages permanent through the recruitment of migrant workers at wage levels lower than prevailing wages for local workers and with restricted labor rights—this corporate strategy intentionally creates an underclass of exploitable workers and undermines efforts at worker solidarity. Migrant workers cannot be seen as the panacea to fill labor market shortages or respond to demographic changes or to be treated like a commodity in trade agreements as a strategy to curb the cost of labor.

We are encouraged by the widespread support for addressing migrant rights through the recent adoption of the UN Sustainable Development Agenda and through Target 8.8 of the UN Sustainable Development Goals to "Protect labor rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment." The agency and labor rights of all workers, including the most vulnerable, must be protected and strengthened to build peaceful, just societies.

## Governance

International migration is complex and needs to be dealt with in the context of a comprehensive multilateral governance framework. Institutional and policy coherence are necessary in order to address gaps and strengthen the application of norms and standards. International rights need to be codified into legal standards that provide migrants with protections equal to those afforded national workers, including the freedom of movement, freedom of association and collective bargaining, freedom from discrimination, and access to justice and legal services.

At the 2013 UN High Level Dialogue (HLD), states committed to work toward an effective and inclusive agenda on international migration that integrates development and respects human rights by improving the performance of existing institutions and frameworks, as well as partnering more effectively with all stakeholders involved in international migration and development at the regional and global levels. We hope that commitment remains firm, and that states will continue to hold dialogues with a coherent and cohesive structure within the UN system, as was recommended in the 2006 HLD.

Further, the ILO should be positioned as the lead agency on labor migration issues within the global governance of international migration, by virtue of its constitutional mandate to protect migrant workers, and its unique tripartite structure and standards-setting function. International migration flows must be regulated in the framework of the ILO's decent work agenda with the genuine participation of workers', employers', migrants' organizations and governments, the

full respect of all workers' rights, and a guarantee that the right to equal treatment between local and migrant workers will be protected.

Informal settings like the GFMD lack a normative reference for the protection of individual rights and rely on unequal bargaining positions among states. The labor movement has serious concerns about the slow progress made at the GFMD toward accountability, transparency and inclusivity of the process. While we hold that the UN is the best place for governments to jointly agree on policy and process regarding the migration and development nexus, and the ILO specifically is the best place to address labor migration policies, it appears the GFMD will continue to be an important policymaking space embraced by states.

We are, therefore, troubled by the growing calls for establishing a private-sector engagement mechanism within the GFMD process. While the business community is an important stakeholder in migration policy, its perspectives should not be privileged while other stakeholders are relegated to a separate sphere with little government engagement within the "civil society days." The GFMD should adopt by 2017 an ILO-led tripartite model of consultations between governments, employers and trade unions in partnership with migrant workers' associations on the formulation of policies and the pursuit of best practices. In this vein, we call on governments to utilize the expertise of their labor ministries and enhance their role within government delegations to ensure intergovernmental deliberations benefit from the input of those charged to protect migrants at work.