



Global Unions Recommendations for 2017 Global Forum on Migration and Development Berlin, Germany

Governance and the UN System

The Global Compact on Safe, Orderly, and Regular Migration is an important opportunity to strengthen global governance of migration and to ensure that the human, including labour rights, of migrants are fully protected. The scale of migration, particularly when combined with the large flows of refugees, requires a comprehensive approach that incorporates the human rights standards overseen by the UN and its agencies, particularly the International Labour Organisation (ILO), not improvisation or fire-fighting measures that are often taken by national authorities or regional and international intergovernmental organisations.

Whilst the Global Compact is a state-led process, states are accountable to their citizens and responsible for protecting the people within their borders. This year, the strong link between the GFMD and the process for developing the Global Compact necessitates a serious dialogue with robust participation from all stakeholders to generate an outcome that uplifts global rights standards, as well as the circumstances of migrants and populations of origin, transit and destination countries. This dialogue must only advance migration policies that promote decent work, respect the full exercise of the rights of migrants, or and reject harsh immigration enforcement regimes that may also violate human rights.

The United Nations is the institutional embodiment of human rights. The Covenants on human rights, UN Conventions, and the standards of UN agencies represent the values of decent and just societies. It is vital that those rights be the centre of UN action on migration and at the core of the new Global Compact on Migration.

The Global Compact consultations and negotiations should have in mind that the answer to development is not migration, but adequate investment in skills and productive capacity, in social and physical infrastructure and developing active labour market policies that enable developing economies to make full use of the talent of their citizens.

Freedom of association and assembly is essential to ensure that the compact contributes to the 2030 Agenda on Sustainable Development, through a rights-based approach. The ILO and its constituents can play a crucial role in shaping rights-based labour migration policies. The majority of the world's migrants move in search of decent work. As such, in the Global Compact negotiations, the ILO should lead on developing and implementing policy related to labour migration so that labour standards, including relevant migration conventions, are respected and social dialogue is promoted. In the development of the Global Compact, the International Organisation for Migration (IOM), whose experience rests in the management of migration, must give due deference to the UN agencies with a rights-based mandate.

It is important to make full use of the ILO's unique tripartite nature and normative framework in the process leading to the adoption and implementation of the Global Compact for Safe, Orderly and Regular Migration, as expressed in the tripartite conclusions adopted at the 106th session of the International Labour Conference of 2017.



Root Causes

There is a wide range of situations that force working men and women to make the difficult and often dangerous decision to migrate. Failures of global and domestic policy have led to massive mixed flows of refugees and other forced migrants. Migrants crossing open waters in over-crowded boats or crossing dangerous land borders are risking their lives because they feel they have no choice due to lack of safety, stability or decent work at home. Origin and destination countries continue to place an unbalanced emphasis on labour migration over the development of resilient, inclusive labour markets and decent work at home.

Extreme poverty, lack of economic opportunity and decent work, oppression, violence, climate change, corruption and aggressive recruitment by profiteers are among the factors that cause people to migrate.

An important aspect of global migration policy and sustainable development should be to address the root causes of migration and provide decent work opportunities and development in home countries so that migration becomes an option rather than a necessity.

Moreover, regular migration schemes must be about more than just temporary or circular migration programs. All workers deserve the right to be with their families, raise their own children, freedom from recruitment fees---both formal and informal, and the ability to secure work that is permanent and not precarious, at home and abroad. Temporary or circular labour migration will only be of benefit to all when serious decent work deficits and human rights violations are eliminated from such programs, and they are not misused to undermine established working conditions in destination countries.

Rights and Employment

Respect for the human rights enshrined in UN treaties, including labour standards, can and should be measured based on the existence of enabling national legislation and the ratification of international Conventions. However, as important as those indicators are, they alone are not sufficient. Are migrant and workers' rights living and breathing in practice? Can rights be effectively exercised, or are they simply hopes or goals that remain on paper?

Probably more than any other group of workers, migrants face acute challenges to exercising their labour and trade union rights. For instance, some countries make no legal distinction between the right of migrant and non-migrant workers to organise and bargain collectively as provided in ILO Conventions 87 and 98. However, in practice, migrant workers are often concentrated in precarious work arrangements where there may be no formal employment relationship or where the employer controls their ability to live and work in a destination country. National policies that respect human rights will be meaningful if, and only if, systems of work organisation are put into place that make the exercise of rights practical and possible. For this reason, freedom of association is essential, as is the experience the ILO can bring to the discussions.

Temporary or circular migration programmes often rob workers of their rights. The dominant labour migration models that limit the duration of work and tie workers to a single employer have a chilling effect on any practical possibility to organise or become active in trade unions. Circular migration has often proved to be a failed development strategy that places all the risks of labour migration on the backs of individual migrants and privatizes the rewards, with little evidence of broader societal benefit. Temporary migration programmes can also create a de facto segregation between low wage workers and higher skilled workers who have much greater chances of permanent residence, should they so desire. To be part of a fair labour migration agenda, such programs would need to uphold the principles of non-discrimination and equal treatment, and take care in their design not to create an



entire class of low-wage workers who are in practice denied the right to live with their families and raise their own children, generation after generation. Such programs should not create artificial divisions between migrant and local workers, that can lead to resentment and hostility towards migrants.

A rights-based approach requires, at minimum, that labour migration mechanisms respect core labour standards, allow for visa portability and labour market mobility, promote equal coverage of labour law, and respect the right of all workers to family unification. The Global Compact process must not be used as a vehicle to expand access to captive and exploitable labour in destination countries, or as a substitute for decent work development strategies in origin countries.

Meaningfully protecting the rights of migrant workers so that they can represent their own interests is a fundamental measure of freedom. It is also a way of ensuring that labour migration programmes are not misused to drive down labour standards or undercut established conditions in host countries. Many “special” issues of migrant workers are addressed in the ILO migration Conventions, which also have the potential to contribute to effective governance of the considerable migration challenges of today. However, these Conventions still have shamefully low levels of ratification – a situation that should be urgently addressed. Migrant workers, however, also enjoy the rights contained in other Conventions, including the core ILO labour standards.

Nearly half of labour migrants today are women, and they face particular risks in the process. They often experience job segregation, low pay, discrimination, harassment, exploitation and violence in their origin countries, in the transit process and in destination countries. Women are also often forced to migrate from the informal economy into the informal economy leaving them with fewer options to exercise their rights, including labour and trade union rights. At the same time, women workers are increasingly organising for and demanding agency in determining their working conditions. The Global Compact must address the particular issues relevant to women migrant workers and ensure that their interests and rights are respected. Particular attention should be paid to migrant women and young migrants in labour migration policy design, including through gender-sensitive policies and interventions measures to improve the situation of women and young people on the labour market and eliminating gender gaps.

A fair labour migration agenda must have at its heart the social and economic inclusion and integration of migrant workers in host countries, be they temporary or long-term, based on the principle of equal treatment and non-discrimination, through:

- building inclusive and resilient labour markets that provide decent work opportunities for local and migrant populations alike
- ensuring access to adequate social protection for all, including access
- to quality public services, including health and care services geared towards meeting the particular needs of migrants
- and combating social exclusion through investment in quality education; skills, including skills upgrading, language and vocational training.

Recruitment Agencies

Many migrant workers and their families fall victim to unscrupulous private recruitment agencies. They are subject at times to blackmail and to violence from the agencies, intermediaries or associated “loan sharks”. Other abuses arising from the recruitment process can range from denial of labour and trade union rights, to collection of recruitment fees and other related costs, to underpayment of wages and illegal wage deductions as well as deception about the nature and conditions of work, multiple layers of contradictory employment contracts, retention of passports and mandatory pregnancy or HIV tests.



Unregulated recruitment heightens migrant workers' exposure to discrimination, exploitation, debt bondage, forced labour, human trafficking and modern forms of slavery. Unscrupulous agencies are also responsible for considerable corruption in government.

In line with ILO standards and law in many countries, migrant workers should pay no fees in exchange for employment or in the recruitment process. Regulating the industry must take the form of mandatory standards that are enforced, rather than reliance on voluntary programmes, which have too often proved to fail. Consideration should be given to the creation of more direct and rigorous government to government arrangements with tripartite oversight; that are not dependent on private agencies.

The ILO Fair Recruitment Initiative and the recently adopted tripartite ILO General Principles and Operational Guidelines for Fair Recruitment are an important move in the right direction. They can serve as a basis and a beginning for eliminating destructive and exploitative practices in labour recruitment, and should be embedded into the Global Compact's approach to regular migration.

Public Services

Access to the full range of public services promotes inclusion and integration of migrants and refugees in society. Public service workers, along with local authorities, are at the frontlines in providing vital services such as emergency response, reception and registration, health care, shelter, food, social services, education, job placement and integration.

Ensuring adequate funding and building the capacity for public service workers in delivering quality public services for migrants, refugees and the local population will not only address inequality but will contribute to social inclusion and combatting racism and xenophobia. Quality public services support the delivery of and access to social protection.

It is important to establish a firewall between immigration control and access to public services and access to justice for migrants, particularly undocumented migrants, who are in the most vulnerable situation. Migrants should never be denied access to public services or to justice due to their immigration status.

Education is crucial. It is a means for migrants to adapt to their new environments. Unfortunately, far too many young people, particularly those in precarious situations, do not have access to good, quality education. The problem has become so large that some private education businesses see migrants and refugees as potential markets and quick profits.

Education is also a means to increase tolerance and understanding in destination countries. Education can build bridges among people. Diversity also contributes to the quality of the education experience.

The Compact should further opportunities in transit and destination countries for migrant children, youth and adults have access to quality education. Teachers in destination countries should be trained and supported to meet the diverse needs of migrant children. Furthermore, mechanisms to accredit and recognise the qualifications of migrant teachers should be put in place.



Deportation and Regularization

Harsh deportation and detention policies and practices have a huge impact on workers' ability and willingness to exercise their rights. In many national contexts, workers lack immigration papers due to inflexible, dysfunctional, and outdated immigration policies and a lack of political will to enact needed reforms. Tied visa or employer sponsorship schemes can also plunge workers into irregularity, especially when seeking to escape abusive or exploitative working conditions. Thus, many workers who are simply trying to support themselves or their families live in fear and employers freely exploit this fear to suppress wages and pit groups of workers against each other. Meanwhile, irresponsible politicians and media channels exploit the situation, further scapegoating and criminalizing migrants.

Punitive immigration enforcement, deportation, and detention practices must be scaled back to allow for due process and meaningful enforcement of labour rights and standards.

The Compact should promote pathways out of irregularity as a necessary component of fair migration policy. Regularization is crucial to empowering migrants in both the workplace and community. While undocumented workers are subject to abuse and deportation, naturalized citizens earn higher wages and contribute more fully to economies and societies.

Leadership

This GFMD and Global Compact process are unfolding in the context of an alarming wave of racism, xenophobia, and discrimination that is touching all regions of the world. Hostility to migrants and associated racial and religious bigotry is central to the rise of authoritarian populism that threatens democracy. Leaders must assuage fears, correct misinformation, and advance a positive vision for the role and contributions of migrants in a global economy.

It is irresponsible to look at migration issues only as economic or security issues. If the Compact is only used to strengthen migration management approaches that increase militarization and put profits over rights, it will be a failure. Such approaches facilitate abuse, divide workers, and further exacerbate xenophobia. World leaders have too long treated people, migrants and non-migrants, as if they were commodities. Such policies have laid the foundation for the current political crisis for which migrants and refugees are being blamed.

Listening to the voice of workers, including migrant workers and their organisations, will ensure that the Global Compact process has roots and benefits from the accumulated wisdom of migrant and host country workers. Trade unions and civil society organisations should have an expanding and ongoing role in grappling with difficult migration issues and developing solutions that will work.

The Global Compact offers a chance to build a consensus to govern migration that goes beyond fine words to change behaviour and move towards a binding framework for migration based on global standards. To do so requires global resolve and collective action. We must have the courage to show true solidarity, lift standards for all, and build more decent, freer, and tolerant societies.