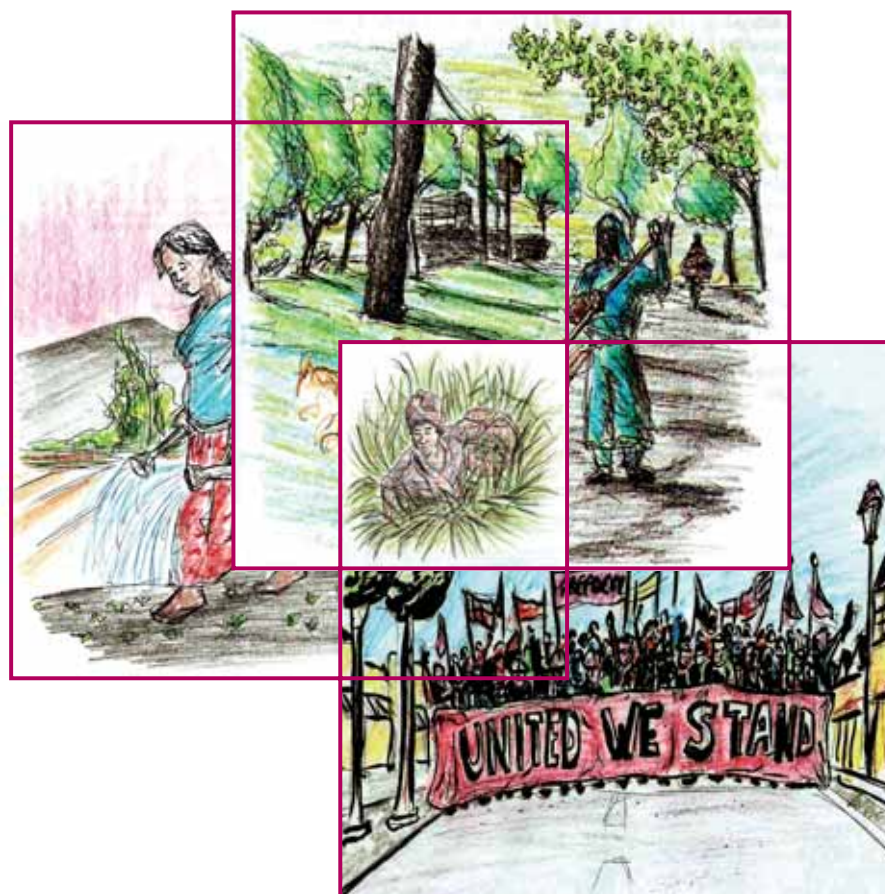




International  
Labour  
Office  
Geneva

# In search of Decent Work— Migrant workers' rights: A manual for trade unionists



Bureau for  
Workers'  
Activities  
(ACTRAV)



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## A manual for trade unionists

International Labour Office Geneva

*Bureau for Workers' Activities (ACTRAV)*



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In search of Decent Work –  
Migrant workers' rights:  
A manual for trade unionists

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# Preface

If there is one global issue that today requires social dialogue, labour migration is it. Labour migration requires social dialogue today, and will require more social dialogue tomorrow, because globalization is leading people, and will continue to lead people, to change their countries of work in their legitimate quest for survival and a better life for themselves and their families.

Why does migration require social dialogue? To answer this question we have to examine two other sub questions: “Is migration a labour issue?” and “How can trade unions play a role?”

Let us examine the first question.

If one looks at the information contained in the present manual and evidenced by studies prepared by the International Labour Organization and global unions, one would rapidly come to the conclusion that: migrant workers face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers’ rights, discrimination and xenophobia, as well as social exclusion. Too often migrant workers are used (and abused) as a source of cheap labour.

Besides the problems faced by migrant workers, their sacrifices and contributions to the economies of their host and origin countries too often remain unaccounted for. Yet migrant workers generate tremendous benefits to both.

Clearly, migration is first and foremost a labour issue: it is about the movement of workers, crossing borders to find employment; it is about equal treatment for these workers, about their conditions, and their rights.

To make sure migration gives its full positive impact, the ILO offers three answers:

Migration flows should be managed through tripartite consensus, not only at the national level but also at the regional and global levels. The ILO and its constituents are best placed to adopt policies reconciling labour migration flows and labour market needs.

To avoid undue pressure on existing wages and conditions, migrant workers’ rights to equal treatment should be respected. The ILO has two international Conventions making provisions for this. These Conventions, together with the UN Convention on migrant workers should be promoted. Trade unions have a responsibility to promote the ratification of these Conventions and ensure they are implemented.

To avoid the persistence of irregular migration and trafficking, legal avenues should gradually be offered to potential migrant workers.

This rights-based approach has been developed in the ILO’s Multilateral Framework on Labour Migration which was adopted for publication by the ILO Governing Body at its 295th Session in March 2006. We invite readers of this manual to consult the ILO Multilateral Framework<sup>1</sup> as a tool for social dialogue on migration issues. This framework is a non-binding tripartite instrument aimed at governments, employers, and trade unions.

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<sup>1</sup> [http://www.ilo.org/public/english/protection/migrant/download/multilat\\_fwk\\_en.pdf](http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf)

This manual is about strengthening the trade union movement's capacity to participate in the shaping of migration policies, promoting sound labour migration practices, reaching out to migrant workers; about making sure that the benefits of migration, when it occurs, are maximized for all: for the countries of origin of migrant workers, for the countries of destination, and for both migrant and non-migrant workers.

Indeed, the first concern would be to reduce the Decent Work deficit in the countries of origin. We need to make sure that people can find Decent Work in their home countries. Promoting good governance, combating poverty, and increasing development assistance therefore form part of the migration equation.

As the UN Secretary-General said in a report on migration and development published in 2006, "Subject to treaty obligations and those deriving from customary international law, a State has the sovereign right to decide who enters and who stays in its territory and under what conditions." But he rightly added "Furthermore, under customary and conventional international law, states have the obligation to uphold the fundamental rights of all human beings". In other words, states have the right to decide who enters their country, but once somebody is in a territory, it is up to that country to ensure that the person's basic human rights are respected, regardless of his or her status.

In addition, international law also recognizes that once an employment relationship has been established, the worker concerned – regardless of his/her status – "becomes a rights' holder entitled to the full panoply of labour and employment rights available to authorized workers."<sup>2</sup>

Why should trade unions take the lead in promoting a rights-based approach to labour migration?

Firstly, trade unions believe in human rights. The UN has recently invited its member States to "acknowledge trade unionists as human rights defenders"<sup>3</sup>. The central notion of human rights is the implicit assertion that certain principles are true and valid for all peoples, in all societies, under all conditions of economic, political and ethnic or cultural rights.

Human rights are universal. They apply to all, including migrant workers, regardless of their status. For trade unions, the priority is to protect human rights and in particular human rights at work. This is another good reason to develop a rights-based approach to labour migration.

A third reason is that protecting the rights of migrant workers is the best way to protect the rights of national workers and avoid attempts to place migrant and national workers in competition with each other, as this would only serve the interests of unscrupulous employers looking for cheap labour.

There is a fourth, more down to earth reason for promoting a rights-based approach to labour migration: migrant workers are also potential members of trade union organizations. Reaching out and organizing migrant workers into trade unions will only be possible if unions are seen as actively promoting the rights of migrant workers.

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<sup>2</sup> Opinion issued by the Inter-American Court on Human Rights, 17 Sept. 2003. <http://www.corteidh.or.cr/opiniones.cfm?idOpinion=24>

<sup>3</sup> UN: Report of the Special Representative of the Secretary-General on human rights defenders, seventh annual report submitted to the General Assembly, Aug. 2007 (A/62/225). <http://www.un.org/documents/>

This manual has been developed over a four-year period since the general discussion on migrant workers that took place at the International Labour Conference (ILC) in 2004. It has benefited from inputs from trade union and ILO experts on migration. The first drafts were tested by trade unionists in different regions during specific validation exercises. Their contribution has enriched the document.

Our special thanks go to Stirling Smith, ACTRAV's consultant, who drafted the manual and adapted it, integrating the comments and suggestions at the different stages of development of the manual and to Lesley Walker from ACTRAV who patiently helped with keeping the document in shape as the adaptations were integrated. Without the contribution and encouragement of the team in the ILO's International Migration Branch (MIGRANT), colleagues in the ILO's International Labour Standards Department (NORMES) and in the ILO's Bureau for Workers' Activities (ACTRAV) at headquarters in Geneva, in Turin and in the field, and senior trade union experts from Global Union Federations (GUFs), the International Trade Union Confederation (ITUC) and national trade union centres, this manual would not have seen the light of day.

It clearly has been the work of a team. And we thank all those who made it happen.

Trade unions CAN make a difference when it comes to promoting and defending workers' rights, social justice, and equality. They CAN make a difference in promoting the ratification of ILO Conventions and their subsequent implementation.

This manual cannot, and should not, replace the enthusiasm and commitment of union activists - both migrant and non-migrant. What the manual aims to do is provide solid analysis of the issues at stake, practical suggestions for actions and ways of making full use of the ILO instruments, its standards and supervisory mechanisms. Decent Work for migrant workers means Decent Work for all workers.

It is our hope that this manual will help those who have taken up the challenge to continue to promote the rights of migrant workers, and will also encourage others to join this fight.

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Geneva

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## ▷ Why this Manual

The rising mobility of people in search of opportunities and Decent Work and human security has been commanding the attention of policy-makers and prompting dialogue for multilateral cooperation in practically every region of the world. The ILO's mandate in the world of work as well as its competencies and unique tripartite structure entrust it with special responsibilities regarding migrant workers. Decent Work is at the heart of this. The ILO can play a central role in promoting policies to maximize the benefits and minimize the risks of work-based migration."

Resolution concerning a fair deal for migrant workers in a global economy  
International Labour Conference, 2004.

People have always moved from one country to another, or within countries, in search of a better life, and sometimes simply to survive, when they have to flee poverty, natural disasters, civil war or persecution. In fact, the ILO's Constitution, through its annexed Philadelphia Declaration affirms that "All human beings irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of both freedom and dignity, of economic security and equal opportunity."

In 2008 it is estimated that more than 191 million migrants, including migrant workers, refugees, asylum-seekers, permanent migrants and others, live and work in a country other than that of their birth or citizenship. The ILO calculates that about 95 million of them have moved to find work. With their families, migrant workers account for 90 per cent of total international migrants.

Migration takes place from developing countries to more developed countries, but also within and between developing countries. Fully 40 per cent of international migrants move between poor countries.

Migrating for work includes men and women. Globally women make up close to 50 per cent of migrant workers. There are slightly more female than male migrants in all regions of the world except Africa and Asia.

### *In search of Decent Work*

"Globalization has accentuated the unevenness of development between countries and thereby generated significant pressure for the movement of labour ... with rising globalization, migratory pressures will most likely increase".<sup>4</sup> The gap between rich countries with labour shortages and poor countries without enough jobs for all those who want them has grown. Combined with ageing populations in many developed countries, this means migration is likely to continue. However, as the global population is also increasing, the percentage of migrants within the world's

<sup>4</sup> *International Migration, Racism, Discrimination and Xenophobia*, ILO-IOMOHCHR, 2001.  
<http://www.ilo.org/public/english/protection/migrant/download/wcar.pdf>



population will, according to United Nations (UN) estimates by the United Nations (UN), remain the same – around 3 per cent.

There is a growing global jobs crisis. Unemployment in terms of people with no work at all is at a record level of 192 million – 6 per cent of the global workforce. And this figure does not take into account the huge numbers in the informal economy, where working conditions, as well as the financial rewards, are usually poor.

### *In search of Decent Work*

“When people cannot find work at home in their communities and societies they look elsewhere.”<sup>5</sup>

**Juan Somavia**  
ILO Director General

Discrimination, exploitation, and trafficking all pose challenges to trade unions as workers’ human rights are threatened. Abuses of migrant workers’ rights also affect the rights and conditions of national workers.

▷ For many, migrating for work may be a rewarding and positive experience, but for an unacceptably large proportion of migrants, working conditions are abusive and exploitative, and may be characterized by forced labour, low wages, poor working environment, a virtual absence of social protection, the denial of freedom of association and union rights, discrimination and xenophobia, as well as social exclusion, all of which rob workers of the potential benefits of working in another country. The development of labour institutions for the protection of migrant workers has lagged behind the growth of migration.<sup>6</sup>

## The ILO’s mandate and migrant workers

Since 1919, the ILO has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent work in conditions of freedom, equity, security, and dignity. In today’s globalized economy, international labour standards, and the setting of new standards, are an essential component in establishing an international framework for ensuring that the growth of the global economy provides benefits to all.

The ILO has been concerned since its foundation with the condition of migrant workers since its foundation. The preamble of the ILO Constitution refers to the need for the “protection of the interests of workers when employed in countries other than their own”. The ILO’s second Recommendation, adopted in 1919, was about migrant workers. The Declaration of Philadelphia (1944), part of the ILO Constitution, demonstrates the continuing concern with migrant workers.<sup>7</sup>

<sup>5</sup> “Dealing with the Global Jobs Crisis”, Opinion piece by Juan Somavia (Director-General of the International Labour Office) at the World Economic Forum, Davos (25 January 2006).  
<http://www.ilo.org/public/english/bureau/dgo/speeches/somavia/2006/davos.pdf>.

<sup>6</sup> *Towards a fair deal for migrant workers in the global economy*, International Labour Conference, 92nd Session, ILO, Geneva, 2004.  
<http://www.ilo.org/public/english/standards/reim/ilc/ilc92/pdf/rep-vi.pdf>

<sup>7</sup> <http://www.ilo.org/public/english/about/index.htm>.

Two key ILO Conventions: – Convention No. 97 Migration for Employment (Revised), (1949) (No. 97) and Convention No. 143 Migrant Workers (Supplementary Provisions), (1975) (No. 143) – deal specifically with the protection of migrant workers. While all ILO Conventions, unless otherwise stated, apply to migrant workers, some are particularly relevant, such as those ILO standards in the areas of fundamental rights, social security, employment, conditions of work, and occupational safety and health.

The ILO Declaration on Fundamental Principles and Rights at Work of 1998 also reaffirmed its concern for migrant workers:

▷ ... the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation.

### *The ILO approach*

In 2004, a general tripartite discussion was held at the International Labour Conference (ILC) on migrant workers. At the Conference the ILO proposed a rights-based approach to labour migration founded on a fundamental respect for human rights, norms and principles and the application of labour standards and based on equality of treatment and non-discrimination.

One of the conclusions adopted by the ILC was the preparation of a plan of action which provides for a wider application of the ILO's migrant workers' Conventions and the adoption of an ILO Multilateral Framework on Labour Migration – non-binding principles and guidelines for a rights-based approach to labour migration. Drawn up by a Group of Experts, the Framework consists of 15 principles and was approved at the March 2006 session of the ILO Governing Body.<sup>8</sup>

In substance, the ILO Multilateral Framework, which was widely supported by the trade union movement, proposes a rights-based policy on migration based on the following:

- Migration policies should be formulated through tripartite consensus, not only at national level but also at regional and global level, promoting cooperation between the same partners in countries of origin and countries of destination.
- To avoid undue pressure on existing wages and conditions, migrant workers' rights to equal treatment should be respected. The ILO has two international Conventions making provisions for this. These should be promoted together with the UN Convention on migrant workers (see Section 5 in this Manual).
- Legal avenues should gradually be offered to potential migrant workers, acknowledging existing labour market needs. This would contribute to reducing irregular migration and trafficking.

<sup>8</sup> The full text is available at:

[http://www.ilo.org/public/english/protection/migrant/download/multilat\\_fw\\_en.pdf](http://www.ilo.org/public/english/protection/migrant/download/multilat_fw_en.pdf)

<sup>9</sup> <http://www.ilo.org/public/english/dialogue/actrav/>



ACTRAV<sup>9</sup>, the ILO's Bureau for Workers' Activities, organized an extensive consultation regarding migrant workers with workers' organizations before and after the 2004 ILC. It was apparent that while many trade unions were actively defending migrant workers' rights, it was felt that there was a need for a solid analysis of the subject that was up to date, covered all the issues, and was yet accessible enough to use by union activists in their campaigns for migrant workers' rights.

This manual is an attempt to fill that need.

## About this manual

The aims of this manual are to assist trade unionists to:

- Understand that migration and the rights of migrant workers are an important issue for trade unions;
- Develop a gender-sensitive trade union perspective and approach to the issue of migrant workers, understanding the difficulties and differences women and men face in the labour market;
- Organize migrant workers – regardless of their legal status or work in the formal or informal part of the economy;
- Defend migrant workers' rights, including using international and national law to defend migrant workers.

**Defending the rights of migrant workers = protecting the rights of all workers!**

### *Who is this manual for?*

- Union office bearers and national committee members.
- Trade union activists.
- Educators/education committees.
- Union legal staff/lawyers.
- Other users interested in defending migrant workers' rights.

### *How can this manual be used?*

There are different ways of using the manual:

- Working through it, in a union meeting, together as a team of union office bearers or active members. Following-up the suggestions, making plans, organizing events, and actions.
- In a workshop/seminar/course – but the manual is not solely meant for use in an education programme.
- As a source of reference – keep referring to it – it is not something you read through once and then put it away.

<sup>9</sup> <http://www.ilo.org/public/english/dialogue/actrav/>





# Section 1

## Why is labour migration a trade union issue?

### Section 1 at a glance

This Section details why trade unions have to have a say in labour migration policies, and the unique role they can play in ensuring that migration benefits all: the country of origin, the country of destination, and both the migrant worker and the non-migrant worker. This Section also explains some of the reasons for labour migration and the problems migrant workers encounter.

## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

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### *Migrant workers are workers*

Migrant workers, regardless of their status, are first of all workers. As such, they have rights, including freedom of association – the right to form or join a trade union. It is also important to remember that, unless specified otherwise, all standards adopted by the ILO apply to migrant workers.

Too often, labour migration is linked to exploitation, the extreme cases of which can be trafficking and child labour.

Trade unions are in the business of protecting all workers, not just their members. This is why trade unions fight for equality, for decent work for all, for social protection and against child labour or forced labour, although not all these workers will be union members. This is because trade unions care for society as a whole, and of course the higher their membership the higher their capacity to influence.

*An injury to one is an injury to all* is one of the best-known trade union slogans and is the main reason for considering labour migration as a trade union issue. As migrant workers are among the most vulnerable groups of workers, they are in need of particular attention in organizing efforts, and at the negotiating table. For trade unions, migrant labour concerns rights, equality, equal treatment and equal opportunity; it concerns health and safety at work, jobs, vocational training, social security, and union organization.

All groups of migrant workers need assistance – and their best chance is with a trade union.

### *Decent Work deficit*

The principal reason why workers decide to move from one country to another to work is the search for Decent Work, because of the lack of Decent Work opportunities at home. Too many workers have been left behind by globalization.

While globalization has produced many benefits, these have not been evenly or fairly distributed. Inequalities between countries and within countries are growing. Inequalities and injustice are union concerns. And the historic role of trade unions in fighting poverty everywhere is an important contribution to reducing migration pressures and ensuring that when migration occurs, it is out of choice and not for mere survival.

However, labour shortages in most of the industrialized countries, together with unemployment and population growth in developing countries, will continue to drive labour migration and it will remain a major source of growth in the global economy.

Promoting Decent Work, and avoiding a situation where governments and employers resort to migration as a source of cheap labour or as a means of regulating labour markets without granting migrant workers rights, or in an attempt to undermine existing rights for all workers, will continue to require special attention by the trade union movement.

## ▶ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

### *A source of strength and survival for the trade union movement*

Beyond the moral obligation of rights and solidarity, one very good reason for recruiting and organizing migrant workers is to provide “new blood” for the trade union movement. Existing unions can revitalize their membership by organizing migrants. Labour market restructuring in the developed economies has meant that trade union membership and density have shrunk in many once highly unionized sectors. The average age of union members has risen.

Recruiting members and organizing in sectors traditionally outside the union movement – including those where many migrant workers can be found – has become critical to the survival and growth of the trade union movement. Indeed, many trade unions are now targeting migrant workers, which increasingly include undocumented migrant workers in their recruitment drives. This is why it is important for trade unions to be seen as leaders in promoting the rights-based approach to labour migration. Support for restrictive migration policies and repression of workers who are in an irregular situation will only make potential members of the trade union movement reluctant to join.

In fact, migrant workers are among those who want and need unions and are willing to join. Many of the complaints brought before the ILO concern attempts by migrant workers to organize, and their being denied freedom of association. Migrant workers make up an increasing percentage of the workforce in agriculture, construction, health care and domestic services, electronics, textiles, manufacturing, food processing and the hotel and restaurant trade. These are often industries built on high levels of exploitation, low wages, and poor working conditions.

**A rights-based approach to migrant workers is the best way of protecting all workers.**

Labour migration is now a major arena for the struggle between labour and capital over the division of wealth, the extent of regulation (or deregulation) of working conditions and worker protection, and the ability of workers to organize themselves into unions. What happens to migrant workers may well be the precedent for what happens more widely across working populations.

Globalization has had a dramatic impact on mature industrialized economies. Workers have seen the quality of their jobs decline, as hours and stress have increased and unionization levels fallen. Unscrupulous employers use migrant workers as a “reserve” of workers ostensibly willing to work for less pay, for longer hours, and in worse conditions than national workers, and without the protection of unions.

The present trends of temporary work, precarious contracts, subcontracting, flexible schedules, employee dependence and undeclared work were all tried out first on migrant workers before being extended to all workers.



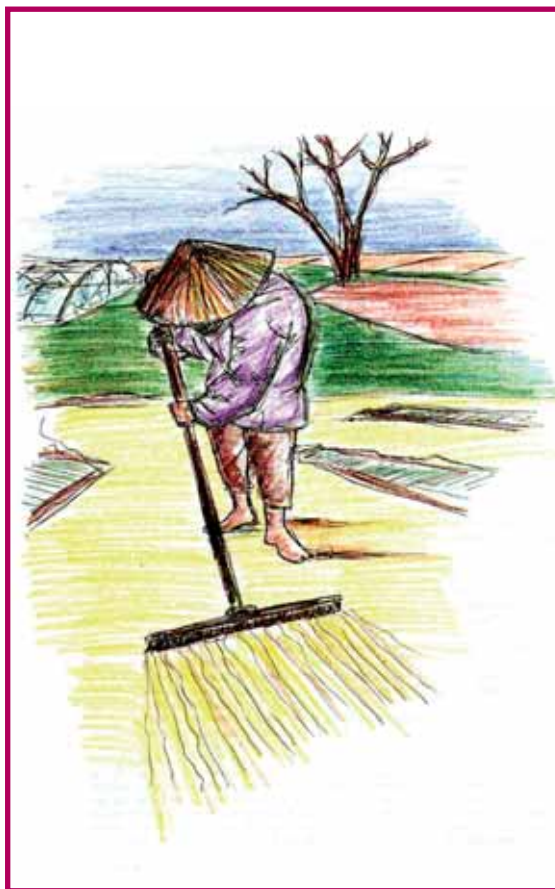
## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

### *What is the solution?*

The answer is to ensure that labour laws and collective agreements are applied to migrant workers, that labour inspectors make sure they are not exploited, and that migrant workers are organized in the trade union movement. If they are paid the same wages and enjoy the same benefits as national workers, then they cannot be used as a testing ground for ways of undermining national workers.

Particular attention should be paid to undocumented workers. When work becomes irregular, employers have a strong weapon to use against any effort to organize unions or fight for better conditions. When migrant workers are vulnerable, their second-class status is not only used against them, but against other workers as well.

A rights-based approach to labour migration would not only prevent the exploitation of migrant workers, it would also help to fight those unscrupulous employers who want to place national and migrant workers in competition with each other.



### *Having a voice in policy-making*

Governments are sovereign and may decide whom they admit to their territory, providing they meet their international obligations and respect human rights.

But since migration policies are a labour market issue, trade unions have every right to be involved, and their views should be listened to when labour migration policies are being considered. Unions (and employers) are uniquely placed to assess the real labour market needs.

Labour migration is not a law and order issue, nor one of border control. Migrant workers are workers. Trade unions are interested in the conditions of workers and the world of work.

Government policies on labour migration are often based on short-term considerations and electoral prospects. By promoting a rights-based approach (including the ratification of international instruments to protect migrant workers), trade unions are promoting a more stable and predictable migration process, which can maximize the benefits for all. If we want our say, we have to raise our voices now.

## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

At the global level, the International Trade Union Confederation (ITUC) and regional trade union organizations, as well as Global Union Federations (GUFs) at the sectoral level, have increasingly put concern for migrant workers high on their list of priorities and are campaigning for a rights-based approach.

### *Fighting racism and xenophobia*

At the start of the twenty-first century, many countries are becoming multi-cultural, multi-ethnic, multi-racial, multi-lingual, and multi-religious. At the same time, there are increasing manifestations of hostility and violence against non-nationals – migrants, refugees, immigrants, even students and tourists.

Extreme nationalist groups propagate myths about migrant workers. This is a long-standing problem. The ILO's Migration for Employment Recommendation (Revised), (No. 86), adopted in 1949, asked countries to "take all practical steps ... against misleading propaganda relating to emigration and immigration" (Annex, Article 2).

It should also be noted that those extreme chauvinist groups which raise the issue of migrant workers are never the friends of trade unionism. They seek to divide workers on the basis of race, religion or nationality. Trade unionists know that division is fatal to our cause. These same parties are always in favour of reducing trade union power.

The trade union movement plays a leading role in fighting racism and xenophobia. In December 2007, the International Trade Union Confederation drew up a trade union strategy. Mamounata Cissé, ITUC Deputy General Secretary said: "The fight to combat racism and xenophobia and to promote human rights, equality and diversity forms an integral part of every trade union organization's mission. Migrants in particular are often exposed to racism."

### **The role of the media**

In Europe, the news about ethnic, cultural and religious minorities and migrants tends to over-emphasize ethnic and immigrant crime .... Once a negative discourse misrepresenting migrants or ethnic minorities is established, it tends to prevail.

*Time for equality at work*, Global Report, International Labour Conference, 2003.



### *Gender discrimination*

A significant change in patterns of migration is the increasing percentage of women migrants. In earlier years, women migrated (sometimes with their children) on the basis of “family reunion”. They were seen as housewives.

Increasingly, women are migrating for work on their own. They are frequently found in low-paid, “reproductive work” such as domestic work, cleaning services, hospitality, care-giving, and in the health care and hospitality sectors. This work is largely undervalued.

In this increasing “feminization of migration”, families are separated (when a family reunification option is not allowed) and children suffer the most. These are high social costs that are not considered in measuring the benefits of migration.

The trade union movement is committed to the fight against gender discrimination at all levels and this must include the double discrimination that women migrant workers suffer.

### *Conclusion*

Migration for work, or labour migration, is an issue for trade unions because it is part of the world of work. Labour migration concerns rights, equality, equal treatment, and equal opportunity; it concerns health and safety at work, jobs, social security, and union organization. It is linked to trafficking, child labour and exploitation. Labour migration concerns discrimination and vocational training.

## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

All of these are trade union issues. Labour migration is a part of the world of work, a “bread and butter” issue that cannot be ignored. Governments are already putting forward policies and introducing legislation on migrant workers. If we want our say, we have to raise our voices now.

### The task for trade unions

There are four areas where trade unions can work:

1. Trade unions must become involved in the policy debate about managing migration – so that the benefits are maximized for workers, and the costs minimized. The trade union position is that migration and migrant workers are not “problems” to be dealt with. Migrant workers are people trying to improve their lives and must be treated accordingly.
2. Information and awareness-raising campaigns for workers and the public at the country level. Racism and ethnicity are often used to divide workers. Unions must reach out and inform members and workers about the facts, and fight the myths and lies spread by racist organizations.
3. Cooperation with trade unions in other countries – this must involve unions in both countries of origin and countries of destination of migrant workers. International solidarity is not an option, or even a duty for trade unions. In a globalized world, it is a necessity.
4. Organizing migrant workers. Trade unions know that the best way to protect workers is for them to be organized. Organizing is the key to improvement. There are also many examples, as we shall see later, of trade unions working to support and organize migrant workers.

These four areas and tasks will be discussed more fully in the following Sections.

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#### Discussion points for Section 1

- Is migration in your country seen principally as a law and order issue, or as a labour market question?
  - Are there any national bodies, whether tripartite or not, that deal with migration?
  - Have extremist groups tried to use migration as a way to build support, and have they tried to organize amongst workers? Has the trade union movement responded to any such attempts?
-

## Learning exercises for section 1



**Learning exercise:** **Why do people move?**

- 
- Aim:** This exercise will help you to think about why people move.
- 
- Task:**
1. Speak to two or three people you have contact with (friends, family, colleagues, neighbours) who have at some time (or know of others who have) moved from the region or country in which they were born or grew up in.
  2. Complete the chart below and be prepared to discuss your findings with the rest of the group.
- 

Who (e.g. yourself colleague at work)	
Where did they live before; and where they live now?	
Why did they move?	
What problems has moving solved	
What problems has moving created	

## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

### Learning exercise: Trade unions and migrant workers

**Aim:** To think about trade union policy.

**Task:** 1 Review the reasons in this Section of the manual that make labour migration a trade union issue.

2 Which ones do you think are most important in your context?

3 Can you suggest any other reasons?

**Activity:** Thinking about migrant workers.

**Aim:** To review some of the arguments about migrant workers.

**Task:** 1. Consider the following statements and decide whether you agree or disagree. One person should be selected to report back for the group. Be prepared to give reasons for your answers.

2. "Migrant workers are only working elsewhere for a short time. It is not worth the trouble to organize them."

3. "Migrant workers will be so desperate to work for any wages, they will be too frightened to organize, in case they lose their jobs or get picked up by the police and deported."

4. "Those migrant workers who have got into bad situations and those who are trafficked have only themselves to blame for their plight. They should have moved abroad with the proper paperwork."

5. "Many of our members are actually frightened to lose their jobs to foreign workers. There is a lot of feeling against migrant workers. We cannot adopt a strong position on this question because it will annoy so many of our members."

6. "Workers from our country who go abroad can look after themselves. There is nothing we can do for them."



## ▷ Section 1 - Why is labour migration a trade union issue? ■ ■ ■ ■ ■

### Learning exercise: Migrant labour – Who benefits?

**Aim:** To think about the advantages and disadvantages of migrating for work from different point of views.

**Task:** 1. In your group, fill in this table.

From the point of view of...	Advantages	Disadvantages
An unskilled migrant worker		
A skilled migrant worker		
Workers in destination countries		
Employers		
Governments of countries of origin		
Governments of destination countries		
Trade unions in countries of origin		
Trade unions in destination countries		
Employment agencies		





# Section 2

## The working and living conditions of migrant workers

### Section 2 at a glance

This Section describes the working and living conditions of migrant workers: their migration journeys, the types of jobs they do, the discrimination they encounter – all of which add often up to a bad experience for most migrant workers.

## ▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■

Most industrialized economies would be significantly affected without a large migrant workforce. But do these migrant workers and their families receive a fair deal in return?

### *The three Ds*

Migrant workers often carry out the “3-D” jobs: difficult, dangerous and degrading. Migrant labour has long been utilized in developed and underdeveloped economies as a low-cost means to sustain economic enterprises, and sometimes entire sectors, that are only marginally viable or competitive.

## Safety and health at work



Occupational safety and health is an important issue for migrant workers for several reasons:

- Migrant workers tend to be employed in sectors such as agriculture, construction, mining or, for instance, meat processing, which are all known for their high levels of fatal accidents and injuries at work.
- Language and cultural barriers mean that the workers may not easily understand specific occupational safety and health communications, instructions and training approaches.
- Many migrant workers work excessive hours, which can contribute to occupational injuries and work-related diseases. In addition, many migrant workers are obliged to live in makeshift accommodation, shantytowns and substandard accommodation. This can lead to poor general health, which makes migrant workers more vulnerable to occupational diseases.
- As migrant workers are considered to be temporary, employers may not invest in training for them.

In Europe occupational accident rates are about twice as high for migrant as for non-immigrant workers.<sup>10</sup>

### Drowned while working in the informal economy

In February 2004, 23 workers were drowned in Morecambe Bay, North West England, while searching for shellfish in dangerous tidal waters. They were all originally from China and were working without any legal registration and protection. The labour contractor (known as a “gangmaster” in the United Kingdom), provided no advice on avoiding the incoming tides.

The UK Government, following pressure from trade unions and public outrage over the deaths, finally passed a law controlling “gangmasters”.

The Gangmasters (Licensing) Act 2004 created two new criminal offences: supplying labour without a licence, and using an unlicensed labour provider. Offenders can face up to ten years in prison.

## Freedom of association

Many migrant workers are denied the right to join or form trade unions and in some situations this restriction is officially enshrined in legislation. In **Kuwait**, foreign workers, who make up about 80 per cent of the workforce, must have resided in the country for at least five years and must obtain a certificate of moral standing and good conduct before they are allowed to join trade unions as non-voting members. They are not permitted to run for any trade union posts. The restrictions on the role of foreign workers in trade unions have been removed in the new draft labour law. In **Kyrgyzstan**, migrant workers are implicitly excluded from labour law. In some countries, there are restrictions on migrant workers holding office in unions – for example – **Mauritania, Nicaragua, Rwanda** and **the Bolivarian Republic of Venezuela**. A small number of trade unions still limit access to migrant workers despite ILO Conventions and should, of course, lift such restrictions.

Legislation should be made flexible so as to permit the organizations to elect their leaders freely and without hindrance, and to permit foreign workers access to trade union posts, at least after a reasonable period of residency in the host country.

**ILO Committee on Freedom of Association, 290th Report, Case No. 1612.**

This is even more of a problem for undocumented migrant workers. A Spanish law that came into effect in 2001 denied trade union rights to undocumented migrant workers. The ILO’s Committee on Freedom of Association ruled that this contravened ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise 1948). Following the ruling of the ILO’s

<sup>10</sup>*Hazards at work: Organising for safe and healthy workplaces*, TUC, 2005.  
ISBN: 978 1 85006 806 8

## ▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■

Committee on Freedom of Association, **Spain's** Constitutional Court declared such provisions to be unconstitutional, reaffirming the right to freedom of association for all migrant workers. This case is discussed later in Section 5 of this manual.

But it is not simply a matter of the law. A number of unscrupulous employers are attracted to employing migrant workers precisely because they can exploit them. If workers are organized, they are harder to exploit. In many instances, employers can move swiftly against migrant workers. If they are irregular migrant workers, the employer can threaten to report them to the authorities and have them deported. In many countries, an entry visa or work permit will depend on having a named employer. By sacking the worker, the employer can bring about the cancellation of the right to remain.

Linking work permits and entry visas to employment with a named employer is a charter for exploitation. Migrant workers must be allowed to change employers without adverse consequences. ILO Convention No. 143 (Migrant Workers (Supplementary Provisions) (1975)) provides for this right after a reasonable period of time, not exceeding two years.

### *Wages*

The wages of migrants as a whole are lower than those for national workers, which may be partly explained by different levels of skills among migrants, but discriminatory practices do play a role. There are also wage disparities between groups of migrants and, in general, women migrants are worse off.

## Discrimination

Discrimination in employment is still widespread in many countries. This takes multiple forms. Discrimination against migrant workers most often occurs on the basis of sex, race, ethnic origin, language, nationality, religion, or migration status.

In 1999, the ILO's independent Committee of Experts on the Application of Conventions and Recommendations (CEACR) noted that:

▷ ... women migrant workers suffer from double discrimination in employment: first because they are foreigners and hence subject to the same discrimination as male migrant workers; and second because they are women and as such often victims of entrenched traditional attitudes in their country of origin or of employment concerning the place of women in society in general and in working life in particular. For example, such social attitudes may affect the right of these women to leave their country of origin without permission from their husband, to engage in certain occupations, to receive an equal wage for work of equal value, to have access to education or training programmes, etc. There is no overlooking the fact that the large majority of women migrant workers are concentrated in "typically female" occupations or sectors, which not only tend to be less well paid than the jobs held by men but are also among those least protected by labour legislation.<sup>11</sup>

<sup>11</sup> Committee of Experts on the Application of Conventions and Recommendations, General Survey on migrant workers, 1999, <http://www.ilo.org/ilolex/english/ceacrrepsq.htm>

### **ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

ILO Convention No. 111 deals with discrimination in employment and occupation. The Convention, one of the eight which have been designated as “core” human rights’ Conventions, is a key text on the issue of discrimination at work.

Article 1 defines discrimination as:

*... any distinction, exclusion or preference made on the basis of race, colour sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.*

Note that nationality is not included in this list; States CAN deny a worker access to its labour market on the grounds of nationality. However, once in the labour market, all workers whether nationals or non-nationals are protected by Convention No. 111 if they are discriminated on any of the grounds listed in the Convention.

For the purpose of the Convention, the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and the terms and conditions of employment.

Member States which ratify the Convention undertake:

*... to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.*

### **Unemployment**

Unemployment rates for migrant workers are generally higher than for national workers. Migrant men and women are twice as likely to be unemployed as non-migrants according to the Organisation for Economic Co-operation and Development (OECD)<sup>12</sup> – the group of rich industrialized countries.

While some would use this fact to support their claim that migrants are dependent on social security, the reason for their unemployment is clearly discrimination. Studies by the ILO show that migrant workers with equal training and equal experience to national workers will not even be granted an interview because their names sound foreign.

### **Social security**

There are often disparities in social security access and coverage for migrant workers. This is particularly true for temporary migrants, seasonal workers, workers in subcontracting, and undocumented migrants. Temporary labour contracts are often used by unscrupulous employers as a

<sup>12</sup><http://www.oecd.org/>

## ▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■

means of avoiding social security liabilities. Many migrant workers actually pay social security contributions but will never receive any benefits.

### *Racism and xenophobia*

Migrant workers can face a particular problem of physical attacks and verbal abuse from racists. The examples below could be multiplied many times over.

- In October 2000, the International Confederation of Free Trade Unions (ICFTU) condemned attacks on migrant workers in **Libya**. At least 500 Nigerians were killed and many more injured. They were the victims of attacks by young Libyans targeting black migrants, allegedly after the government ordered a crackdown on foreign employment. The attacks were provoked by news portraying African migrants as being involved in drug-trafficking or dealing in alcohol.<sup>13</sup>
- In June 2007, a news agency in **Tajikistan** reported that over half a million Tajiks go abroad in search of work and many end up as undocumented migrants in Russia where they are vulnerable to accidents, racist attacks and other crimes. The agency reported that in the first six months of 2007, the bodies of over 100 migrants were brought back to Tajikistan from the Russian Federation.<sup>14</sup>
- In October 2007, a bus carrying South Asian farm workers was attacked by stones thrown by white males in the province of British Columbia, **Canada**. There have been several attacks in the same area in recent years.<sup>15</sup>

### *HIV/AIDS, reproductive and maternal health*

Migration heightens both risks and vulnerabilities of exposure to HIV/AIDS. One example is migrant mine workers in **South Africa**, who have had high levels of infection as a result of the poor living and working conditions provided by mining companies.

In general, vulnerability to HIV infection is greatest when people live and work in conditions of poverty, social exclusion, loneliness, and anonymity. An ILO paper, examining the relationship between migration for labour and vulnerability to HIV infection, points out:

- ▷ For migrants relocating to a new community, social and sexual norms may be different than in their community of origin. Housing may be crowded and limited leisure opportunities encourage the use of alcohol, drugs and commercial and/or casual sex. This may be especially true for workers who are not allowed to migrate with partners or families. In a study of seasonal migrants from Mali and Niger working in Côte d'Ivoire, 90 per cent were married but less than 10 per cent were accompanied by a partner. Without the basic support systems provided by family and community, increased risk-taking behaviour is likely and those risks may then be passed on to the family and community of origin.<sup>16</sup>

<sup>13</sup>ICFTU OnLine No. 207/2000. <http://www.icftu.org/displaydocument.asp?Index=991211501&Language=EN>

<sup>14</sup>News Briefing Central Asia, 27 June 2007. [http://www.iwpr.net/?p=btj&s=b&o=336645&apc\\_state=henh](http://www.iwpr.net/?p=btj&s=b&o=336645&apc_state=henh)

<sup>15</sup><http://www.justicia4migrantworkers.org/index.htm><http://www.justicia4migrantworkers.org/bc/index.htm>

<sup>16</sup>*Population mobility, migration and HIV/AIDS: Issues and challenges for the ILO.*

<http://www.ilo.org/public/english/protection/trav/aids/publ/migrantsandaids.pdf>[www.ilo.org/public/english/protection/trav/aids/activities/migration/htm](http://www.ilo.org/public/english/protection/trav/aids/activities/migration/htm)

Yet access to treatment and prevention are not always guaranteed for migrant workers. In addition, some countries still require a negative HIV test result as a condition for entry or to secure extensions of a visa. This is contrary to human rights and good practice identified by the ILO's Code of Practice on HIV/AIDS and the World of Work, and does not help to prevent the spread of the disease.

Gender plays an important role in vulnerability to HIV infection, and female migrant workers are among the most vulnerable to sexual harassment and forced sexual intercourse. An especially vulnerable group are the large numbers of women migrant domestic workers – for example, more than 60 per cent of migrants from **Sri Lanka** are women, employed primarily in domestic services. They are frequently undocumented, or their papers are taken by the employer or agent; they have few rights and are not usually protected under local laws. They also have little power to refuse sex with their employers.

### **The ILO Code of Practice on HIV/AIDS and the World of Work<sup>17</sup>**

#### **Screening does not stop HIV/AIDS**

Screening should not be required of job applicants or persons in employment (Paragraph 4.6).

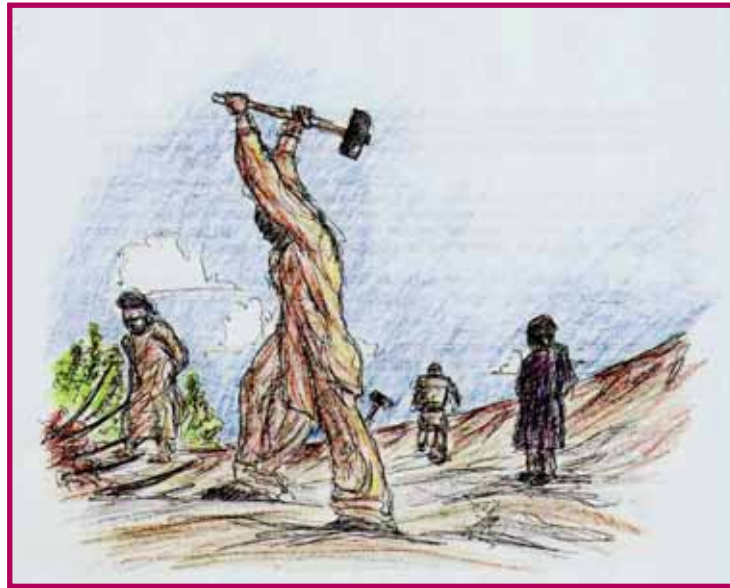
Testing for HIV should not be carried out at the workplace. It is unnecessary and imperils the human rights and dignity of workers: test results may be revealed and misused, and the informed consent of workers may not always be fully free or based on an appreciation of all the facts and implications of testing. Even outside the workplace, confidential testing for HIV should be the consequence of voluntary informed consent and performed by suitably qualified medical personnel only, in conditions of the strictest confidentiality (Paragraph 8).

#### **Prohibition in recruitment and employment**

HIV testing should not be required at the time of recruitment or as a condition of continued employment. Any routine medical testing, such as testing for fitness carried out prior to the commencement of employment or on a regular basis for workers, should not include mandatory HIV testing (Paragraph 8.1).

<sup>17</sup>[http://www.ilo.org/public/english/protection/trav/aids/code/languages/hiv\\_a4\\_e.pdf](http://www.ilo.org/public/english/protection/trav/aids/code/languages/hiv_a4_e.pdf)

## ▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■



### *Dangerous journeys*

Because of government policies that make it difficult for undocumented migrants to move easily, there is a large industry that offers to transport them to “attractive” destinations – at a cost. Workers may have to pay considerable amounts to agents who in some countries are known as people-smugglers or just “hyenas”. Migrants are often moved dangerously. Some have been placed inside containers and have suffocated to death, others put onto ships or boats that have sunk at sea, or simply been abandoned.

- It is estimated that 800 Moroccans drown every year trying to make the crossing into **Spain**.
- In October 2003, 70 people trying to reach Europe from **Libya** perished at sea in horrific conditions. They died of hunger and thirst after the boat broke down and drifted for at least 10 days before being spotted by an Italian ship. Only 15 were alive when rescuers reached the corpse-strewn boat.
- A recorded 282 bodies were found on the **Mexico–United States** border in 2005.

According to a union report:

- ▷ Mauritania has, for instance, recently become a popular route for undocumented migrants, particularly as a result of the increasing surveillance by Morocco of its coastline and of the Spanish enclaves of Ceuta and Melilla. Mauritania has hit the headlines almost every day, as a result of the macabre listing of undocumented immigrants who have perished at sea or been sent back after attempting to reach Spain. Over 3,000 undocumented immigrants have been intercepted off the Canary Islands since the start of 2006. Between 200 and 1,000 are believed to have drowned, based on differing estimates.<sup>18</sup>

<sup>18</sup>ICFTU Online, *Migration from Africa to Europe: Promoting development, decent work and the real needs of the labour market*, 7/4/2006. <http://www.icftu.org/displaydocument.asp?Index=991223664&Language=EN>



### *Exploitation on return*

Many governments are only concerned with profiting from the hard work of their migrant workers abroad and make no arrangements to support or protect them. On their return they are harassed by immigration and customs authorities.

#### **Indonesia**

Legislators reportedly protect the 400 recruitment agencies that generate an estimated US\$2 billion a year in revenue by charging migrants US\$1,500 each to go abroad, prompting one critic to say that: "Parliament is unlikely to enact laws that go against agencies' interests." Some agents reportedly give legislators US\$100 for each migrant recruited in their district, and returning migrants complain that when they pass through a special terminal for them in Jakarta, instead of protection they are exposed to government and private agents charging them unauthorized fees and giving them poor exchange rates.

**Philip Martin, Merchants of labor: Agents of the evolving migration infrastructure, International Institute for Labour Studies, 2005.**

### **Trafficking in persons**

Trafficking in persons (often termed "human trafficking") is an extreme form of irregular migration. All types of workers are trafficked but women and children are particularly vulnerable. Trafficking in human beings increased dramatically during the 1990s. The ILO estimates that around 2.4 million people have been trafficked into forced labour.<sup>19</sup>

Much attention has been focused on trafficking into commercial sexual exploitation. But it must be emphasised that people are also trafficked into other forms of labour. Here they may be exposed to dangerous work, excessive working hours, violence, and poverty pay – if any pay at all.

There is a clear human rights' approach to the issue of trafficking which puts victims first. This is recognized in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. (Note that this is a protocol to a UN Convention against Organized Crime, sometimes called the Palermo Protocol.)<sup>20</sup>

<sup>19</sup>Trafficking for forced labour – How to monitor the recruitment of migrant workers, ILO, Geneva, 2006. [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—declaration/documents/instructionalmaterial/wcms\\_081894.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/instructionalmaterial/wcms_081894.pdf)

<sup>20</sup><http://untreaty.un.org/English/TreatyEvent2003/Texts/treaty2E.pdf>

## ▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■

Under this UN protocol, trafficking is defined as:

- ▷ the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (Art. 3(a)).

There are a number of ILO Conventions dealing specifically or implicitly with trafficking. The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) requires measures to be taken against labour trafficking (Article 5), and The Worst Forms of Child Labour Convention, 1999 (No. 182) defines the trafficking of children as one of the worst forms of child labour. Therefore member States which ratify Convention No. 182 should take steps to secure the elimination of child trafficking – within a time-bound programme. The Committee of Experts on the Application of Conventions and Recommendations has raised serious concerns regarding human trafficking in the context of the Forced Labour Convention, 1930 (No. 29) in a number of countries, and issued a general observation on this phenomenon in 2000.

### Where are the Filipino 11?

In November 2007, the Canadian Labour Congress (CLC) was obliged to call for an immediate moratorium of the Canadian Government's Temporary Foreign Worker Program because of repeated abuse and exploitation; under the programme, workers were being trafficked. Even the Government acknowledged that it could not "monitor the working conditions offered by the employer following entry into Canada".

The CLC acted following a report that the Temporary Foreign Worker Program enabled a labour broker to lure 11 workers to Canada for non-existent jobs. Those workers – known as the "Filipino 11" – became indentured labour after having to pay over \$10,000 to labour brokers; they were promised jobs at up to Canadian \$23 an hour. But once in Canada, they were "sold" to unscrupulous employers, kept in an isolated rural house, and forced to do menial jobs earning – if paid at all – a fraction of what they were promised.<sup>21</sup>

<sup>21</sup><http://canadianlabour.ca/index.php/november/1290>.

## Migration, people-smuggling or trafficking?

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As there is some confusion about these terms, it is important for trade unionists to be clear about the differences between them and the definitions in international law.

Migration may take place through regular or irregular channels and may be freely chosen or forced upon the migrant as a means of survival (e.g. during a conflict, an economic crisis or an environmental disaster). If the method of migration is irregular then the migrant may be assisted by a smuggler who will facilitate illegal entry into a country for a fee. Smugglers may demand an exorbitant fee and may expose migrants to serious dangers in the course of their journey, but on arrival at their destination, the migrants are free to make their own way and normally do not see the smuggler again.

### People-smuggling

The international legal definition of smuggling is found in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000).

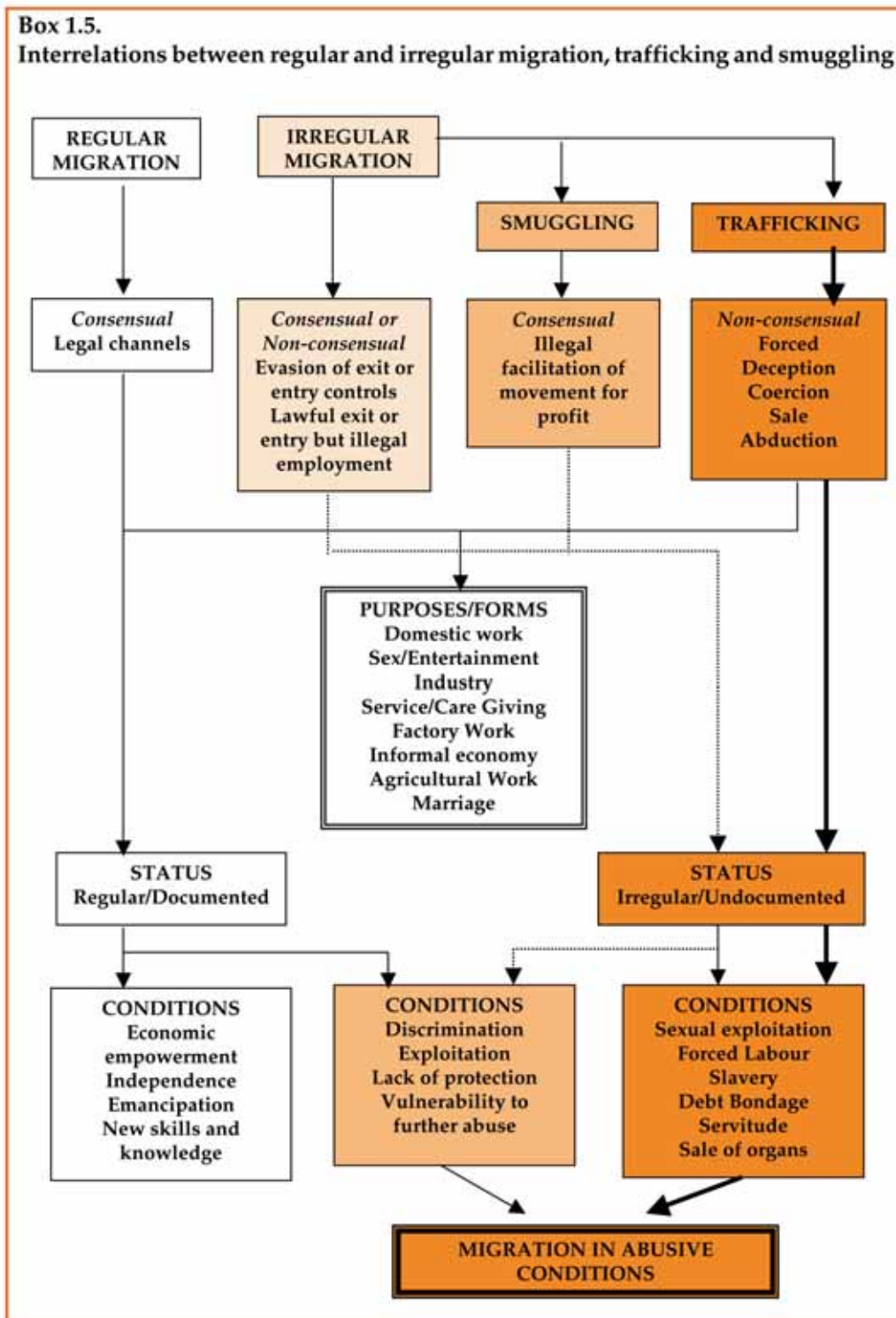
- ▷ Smuggling of migrants shall mean "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Article 3(a)).
- 

A most important clause of the protocol establishes that:

- ▷ Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of (smuggling).
-

▷ Section 2 - The working and living conditions of migrant workers ■ ■ ■

Different types of migration



GENPROM: *An Information Guide: Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers*, Geneva, ILO, 2003.

*Trafficking for Forced Labour: How to Monitor the Recruitment of Migrant Workers*

Trafficking is also contrary to international law and should be contrary to national law. What can happen is that work-seekers may leave their homes in an act of migration, cross a border and subsequently be trafficked. They may have signed a contract with an agent but this is worthless when violence and coercion are used, in a country where they do not speak the language, and/or lack any sort of support.

The vast majority of people who are trafficked may believe that they are crossing borders for legitimate employment. For most trafficked people it is only once they arrive in the country of destination that their real problems begin. The work they were promised does not exist and they are forced instead to work in jobs or conditions which they did not agree to.

### **The root causes of trafficking**

Poverty and inequity are root causes of trafficking. Gender discrimination within the family and the community, as well as a tolerance of violence against women and children, also come into play. Lack of appropriate legislation and political will to address the problem, restrictive immigration policies, globalization of the sex industry, and the involvement of transnational organized criminal networks are other causal factors.

*Trafficking in human beings: New approaches to combating the problem, ILO Geneva, 2003.*<sup>22</sup>

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### **Discussion points for Section 2**

- Are there recent examples of exploitation of migrant workers that have been discovered in your country?
  - Are there statistics for the accident rates amongst migrant workers?
  - Are you clear on the distinction between people smuggling, and trafficking in persons?
  - Is there any legislation to protect people who have been trafficked, or are they treated as irregular migrants and deported?
- 

<sup>22</sup>[http://www.ilo.org/public/libdoc/ilo/2003/103B09\\_281\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2003/103B09_281_engl.pdf)



## Learning exercises for section 2

Learning exercise: **Why do people move?**

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**Activity:** Women migrant workers.

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**Aims:** To develop a picture of women migrant workers.

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- Task:**
1. Imagine you are a woman migrant worker.
  2. Write a letter to her family back in her home country, describing her experiences – the journey, any troubles she might have had in actually entering her country of destination and finally her new job.
  3. And remember that the woman worker will not want to give her family and friends at home any cause for worry.
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# Section 3

## Facts and figures about migrant workers

*"... immigration is the necessary and unavoidable result of economic success, which generates a demand for labour faster than can be met by the birth-rate of a modern developed country."*

*British Foreign Secretary, Robin Cook, 2001.*

### Section 3 at a glance

In this Section we ask:

- Who are migrant workers?
- Where do migrant workers come from, and go to?
- In which sectors do migrant workers work, and what jobs do they do when they arrive in destination countries?
- What gender are migrant workers?
- What are the trends in labour migration?
- Finally, this Section deals with some of the myths about migrant workers.

## ▷ Section 3 - Facts and figures about migrant workers ■■■■■■■■

### Who are migrant workers?

#### *Facts and figures about migrant workers*

People have always moved from one country to another in search of Decent Work and opportunities for a better life. Yet, with the exception of major crises provoked by war, natural disasters or political persecution, the flow of migrant workers relative to world population has remained stable, representing slightly less than three per cent. And the United Nations predicts that this will remain so during the next 40 years, even if in absolute terms the number of migrant workers continues to grow.

#### *How many migrant workers?*

There is a good deal of confusion about the numbers of migrant workers and often a lack of precise and homogenous statistical data disaggregated by sex and origin or nationality. This is because different countries may have different definitions of what constitutes a migrant worker.<sup>23</sup>

Table 1 shows the international trends for migration, estimated and compiled by the International Organisation for Migration (IOM). It is important to note that the number of migrants is broadly stable over time, as a percentage of world population. The large jump between 1985 and 2000 is mainly due to the creation of many new countries, with the break up of the former USSR. Many people, especially ethnic Russians, found themselves practically from one day to the next, in a "foreign country", and so were counted as migrants.

Cross-border flows of people have been accelerating in recent decades and by 2008 there were over 190 million international migrants. Of these it is estimated that 95 million were migrant workers.

**Table 1 International migration trends**

Year	Total world population	Number of migrants (millions)	Migrant percentage (%)
1965	3 333	75	2.3
1975	4 066	84	2.1
1985	4 825	105	2.2
2000	6 057	175	2.9
2050	9 000	230	2.6

Source: IOM, *World Migration Report*, 2005.<sup>24</sup>

<sup>23</sup>For a discussion of some of the statistical difficulties, see Otoo Yoda, *Measuring global labour migration: Global estimates of international migrant workers*, at: <http://www.ilo.org/public/english/bureau/stat/download/articles/2005-2.pdf>.

<sup>24</sup><http://www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=932>



## Where do migrant workers come from, and go to?

Migrant labour is sometimes discussed as if all workers were trying to reach the developed countries. In fact, almost half of all migration is *within* the developing world, the **Gulf States**, and to “newly industrialized countries” (NICs) such as **Singapore**. And in Eastern Europe and Central Asia, most migration flows are from the former Soviet Republics (**CIS countries**) to the **Russian Federation**.

There have been large movements of workers from **Haiti** to the **Dominican Republic**, from **Burkina Faso** to **Côte d’Ivoire**, from **Egypt** to **Jordan**, from **Indonesia** to **Malaysia**, or to **Argentina** from neighbouring countries. Some 2 million Asian workers leave their countries every year to work in other countries within and outside the region under short-term employment contracts.

It is true that since the 1970s there has been a growing trend of migration flows from developing to developed countries – in particular, Europe and the United States. Wages and working conditions are generally higher, and some workers who are in search of Decent Work opportunities have tried to move to those countries.

For example, of the 7.3 million foreign nationals in **Germany**, more than 25 per cent are from **Turkey** (2 million). In **Italy**, migrants from other **European Union** (EU) countries account for only 11 per cent of foreign nationals, compared with 30 per cent from **North African** countries and **Albania**, and over 27 per cent from **Asia**.

In fact, countries that have the highest percentages of migrant workers are among the richest nations: **Luxembourg** (30 per cent), **Switzerland** (20 per cent) and **the United States** (20 per cent).

Table 2 shows that migrant labour as a percentage of the total population is higher in more developed regions, which confirms the view that labour migration is above all the search for Decent Work.

It should also be noted that, according to a OECD report published in 2008, two out of five migrant workers to industrialized countries will return to their country of origin within a period of 5 years.

### ▷ Section 3 - Facts and figures about migrant workers ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

**Table 2 Estimated number of international migrants and their percentage distribution by major area, including percentage of female migrants: 1990-2005**

Major area	Number of international migrants (Millions)		Increment (Millions) 1990-2005	Percentage distribution of international migrants		Percentage of female migrants	
	1990	2005		1990	2005	1990	2005
World	154.8	190.6	35.8	100	100	49.0	49.6
More developed regions	82.4	115.4	33.0	53	61	52.0	52.2
Less developed regions	72.5	75.2	2.8	47	39	45.7	45.5
Africa	16.4	17.1	0.7	11	9	45.9	47.4
Asia	49.8	53.3	3.5	32	28	45.1	44.7
Latin America & the Caribbean	7.0	6.6	- 0.3	5	3	49.7	50.3
Northern America	27.6	44.5	16.9	18	23	51.0	50.4
Europe	49.4	64.1	14.7	32	34	52.8	53.4
Oceania	4.8	5.0	0.3	3	3	49.1	51.3
High-income countries	71.6	112.3	40.6	46	59	47.9	48.7
High-income developed countries	57.4	90.8	33.4	37	48	50.1	50.8
High-income developing countries	14.2	21.5	7.3	9	11	39.3	39.8
Upper-middle income countries	24.7	25.7	1.0	16	13	52.5	52.9
Lower-middle income countries	24.8	22.6	- 2.2	16	12	51.7	52.9
Low income countries	32.7	28.0	- 4.7	21	15	46.9	47.8

Source: United Nations, Trends in Total Migrant Stock: The 2005 Revision<sup>25</sup>

<sup>25</sup>From the Report of the Secretary-General to the 60<sup>th</sup> General Assembly of the United Nations, May 2006, on International migration and development: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/353/54/PDF/N0635354.pdf?OpenElement>

### *Age range*

Migration is generally most common among the young adult age groups. In the **United Kingdom** in 2003 the 15–24 and the 25–44 age groups together accounted for a large majority of both in-migrants (84 per cent) and out-migrants (75 per cent). This age range is common in all countries. A recent study (which focused on migration from the southern and eastern Mediterranean region (**Egypt, Morocco** and **Turkey**) and from sub-Saharan Africa (**Ghana** and **Senegal**) to the European Union, found similar age ranges among migrants. Although more women are migrating than ever before (see below) most migrants continue to be single men in their twenties or thirties – usually migrating from their parents' homes.

**In which sectors do migrant workers work and what jobs do they do when they arrive in destination countries?**

### *Qualifications and skills*

Today's migrant workforce spans unskilled, professional, and managerial workers. One highly significant aspect of migration is the "cherry-picking" of skilled workers by many developed countries. For example, in a number of OECD countries between 1995–2000, the arrival of highly skilled immigrants – such as those working in IT; doctors and medical staff; – exceeded that of unskilled workers.

Most countries continue to welcome the arrival of professional, skilled migrants rather than unskilled workers. **Australia** and **Canada**, for example, operate points systems which make it easier for professionals from developing countries to enter as immigrants. The **United States** also makes it relatively easy for professionals to enter with temporary visas if a United States employer requests them. During the 1990s, many developed countries recruited foreign health professionals. Nearly 33 per cent of doctors and 13 per cent of nurses in the **United Kingdom** are foreign-born and 50 per cent of the extra staff employed by the UK's National Health Service over the past decade qualified abroad.

Many of the countries mentioned above have a different view of so-called "unskilled workers" and make it hard for them to enter or stay.

In fact the need for unskilled workers is considerable. This is because developed economies are characterized by ageing workforces and declining birth rates and their need for unskilled workers is great – indeed the prosperity of many countries depends on increases in migration. It may well be that host countries "prefer" skilled migrants and even attempt to discourage unskilled migrants – but they cannot do without them. It is the restrictive policies on admission of unskilled migrants that often contribute to increased irregular migration.





### *Women migrant workers and domestic work*

Migrant women domestic workers are among the world's most vulnerable workers. Most are women moving from poorer to richer countries for economic reasons, and may have to leave their children behind, often in the care of relatives or a hired local house-helper, creating global care chains.

- In **Hong Kong**, migrant domestic workers numbered more than 223,394 in 2005.
- Between 1999 and 2001, 691,285 **Indonesian** women left their country (representing 72 per cent of total Indonesian migrants) to work mainly as domestic workers abroad.
- In **Italy**, 50 per cent of the estimated 1 million domestic workers are non-European Union citizens.
- In **France** over 50 per cent of migrant women are believed to be engaged in domestic work.
- In **Costa Rica**, domestic workers are largely drawn from neighbouring **Nicaragua**.
- In **Asia**, the most important source countries of female migrant workers are **Indonesia**, **the Philippines**, and **Sri Lanka**.

Working conditions of domestic workers vary enormously. Some are treated as members of their employer's family, while others are exploited and subjected to conditions which in some cases amount to virtual slavery and forced labour. Domestic workers often have to work long or excessive hours (on average, 15–16 hours per day), with no rest days or compensation for overtime; they generally receive low wages, and have inadequate health insurance coverage.

Domestic workers are also exposed to physical and sexual harassment and violence and abuse, and in some cases are trapped in situations in which they are physically or legally restrained from leaving the employer's home by means of threats or actual violence, or by withholding of pay or identity documents. One ILO study in **Bahrain** found that "wages are determined according to the nationality of the female domestic workers instead of their experience". In some countries, domestic workers are required to undergo compulsory periodic pregnancy tests. If they test positive, they are immediately deported. Such tests are prohibited by the ILO Maternity Protection Convention, 2000 (No. 183).

In some cases, especially when they are unskilled, women are exposed to a much higher risk of exploitation, and are vulnerable to trafficking. Women often can suffer severe sexual violence, degradation, exploitation and abuse.



## Types of migrant worker

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An attempt can be made to differentiate types of migrant workers, but it is important to remember that workers can move from one category into another.<sup>28</sup>

1. Settlers – people who move to another country to live there permanently. This was a very common form of migration in the past when settlers moved to **Australia**, some **South American** countries or **the United States**. Around 40 per cent of the population of **Argentina**, for example, is of **Italian** origin. This “settler” migration still continues today on a smaller scale.
2. Contract workers – workers admitted on the expectation that they will work for a limited period and return to their country of origin. The temporary migrant programmes of the 1950s to 1960s were of this type. In the past, these workers could extend their contracts, stay longer and become settled. An example is **Turkish** workers in **Germany**. At the present time, considerable numbers of contract migrant workers can be found in the **Middle East** especially in construction and domestic work. Contract workers can also include seasonal workers in agriculture. A particular category of migrant worker is the posted worker. He or she is sent by their employer to undertake a task, normally for a limited period in another country. This would normally be a skilled worker. Within the European Union, there are rules governing such posted workers. Under the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS), this category of worker is also recognized (see box below).
3. Professionals – highly qualified workers with in-demand skills that are marketable in many countries. The restrictions on this category are usually low.
4. Workers in irregular status. The ILO defines irregular migration as the movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or overstaying a valid visa. It should be noted that the refusal of administrative authorities to renew work or residence permits, and appeal procedures related to such decisions, often lead to migrant workers being deprived of regular status, even if they initially entered the country with the required documentation.
5. Asylum-seekers or refugees – people who have left their home to escape danger, often political, religious or ethnic persecution. Once a claim for refugee status is accepted, they can usually take up permanent residence and work legally. But while waiting for a decision on their claim, some take up work in order to survive, though this may not be allowed by law.

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<sup>28</sup>Based on Peter Stalker, *The work of strangers: a survey of international labour migration*, ILO, 1994. [http://www.ilo.org/public/libdoc/ilo/1994/94B09\\_267\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/1994/94B09_267_engl.pdf)



### A Technical Note on GATS

The World Trade Organization's (WTO) General Agreement on Trade in Services (GATS) categorizes trade in service into four "modes". These are:

**Mode 1** – Cross-border provision with no one actually relocating (e.g. postal services or telecommunications).

**Mode 2** – Consumption of services abroad through temporary relocation of the consumer (e.g. visiting patient or student).

**Mode 3** – Commercial presence or subsidiary branches (e.g. banks, hospitals, or construction firms that are owned by a foreign company).

**Mode 4** – Temporary movement of natural persons (workers) across borders to provide services (e.g. executives or doctors).

Mode 4 covers four categories of service personnel, including:

- services' salespersons (e.g. insurance salespersons);
- intra-corporate transferees (e.g. executives, managers, and specialists);
- business visitors (e.g. personnel engaged in establishing a foreign office or subsidiary);
- independent contract suppliers (e.g. doctor or architect).

GATS Mode 4 only covers people moving temporarily, although there is no definition of temporary. In effect the length of stay allowed by GATS Mode 4 is identified by the offers and agreements made in countries' negotiating positions and varies from a few months to a few years depending on the type of work (and usually level of skill). Business visitors can usually stay for up to three months, while intra-corporate transfers are usually for two to five years. It can cover the self-employed moving to offer a service or those employed by others on whose behalf they travel to offer a service. There is some dispute over whether foreigners employed by local firms also fall under Mode 4.

Mode 4 does not cover people seeking access to a labour market in general (they must have a specific sectoral role) or those looking for citizenship, asylum or permanent residence.

How Mode 4 will impact on the regulation of migrant workers is not yet clear. Trade unions need to keep careful watch on this. Including workers in an international agreement about services is contrary to the ILO principle that "labour is not a commodity". There is no reason for the WTO to be dealing with movement of persons.

## Illegal or irregular?

Debate around migrant workers often involves the idea of “illegal migrants”. To say that a person is illegal is nonsense. All persons are entitled to legal status.

However, some workers may find themselves in an *irregular* situation.

Most migrant workers are moving from their home country in search of Decent Work. They are seeking to escape poverty and discrimination, improve their lives, and support their families. Some are able to obtain entry and work officially, through permit and quota schemes. But many cannot, because governments will not accept the reality that low skilled migrant workers are needed as much as skilled workers.

### Workers, not criminals

“Somos trabajadores no somos criminales” – “We are workers, not criminals”

Slogan of undocumented migrant workers in the **United States** protesting against proposed legislation in 2006 that would criminalize them.

Workers hear about well-paid jobs abroad through family or friends or through “recruitment agencies” and other individuals who offer to find them employment and make the travel arrangements. Many migrants have little choice but to rely on people-smugglers or traffickers in order to access these jobs.

In a number of countries not having a passport or valid visa, or overstaying in a country are considered criminal offences. However the only crime that these migrant workers are guilty of is living and working in a country other than their own, contributing to the economy of that country as consumers and often as tax payers. The fact that they have had to use these irregular channels does not make a migrant worker “illegal”. How can a worker therefore be illegal? Any human being, from the minute of his birth, is a holder of and has basic rights – a legal personality. The unscrupulous employer using their services, paying them less than the minimum wage, not providing health and safety protection or social security, often exploiting them – is the one who is breaking the law. These crimes are the ones to focus on.



## Myths about migrant workers

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### Myth 1 – “Migrant workers are a burden”

“Migrant workers are an asset to every country where they bring in labour” says Juan Somavia, the ILO Director-General. In fact, most industrial economies would be worse off without the help of migrant workers, and without this injection of new blood the receiving countries will see their population age and decline even more rapidly.<sup>29</sup>

It is estimated that in 1999 and 2000, migrants established in the **United Kingdom** added US\$4 billion (UK£2.2 billion) net to the budget – that is, they paid more in tax and social security contributions than they received in benefits. In **Germany**, the average migrant makes a positive net contribution of over US\$60,000 during his or her lifetime.

### Myth 2 – “Migrant workers steal our jobs”

The idea that migrant workers are taking the jobs of national workers is based on the concept that there is a fixed number of jobs in any given country and that therefore if more people come there will be fewer job opportunities. In fact, each person creates jobs for others. Empirical evidence suggests that migrant workers often act as a complement to national workers and do not compete with them for work. For example, high-skilled migrants fill vacancies that go unmet by national workers and thus increase productivity, while low-skilled migrants take jobs avoided by national workers, and jobs in sectors that are traditionally affected by strong seasonal fluctuation such as agriculture, construction, and tourism.

In **Germany**, businesses set up by Turkish migrants have led to the creation of 330,000 jobs, including jobs for Germans.

The example of **Spain** shows that even a sharp increase in the number of migrant workers does not have a negative impact on employment. In 2000, migrants represented 4 per cent of the population and in 2005 their number represented 11 per cent of the population. During this period, the unemployment rate decreased, growth was among the highest in Europe and “neither high nor low-skilled migrants were observed to have a negative effect on the employment of Spanish workers”, according to the OECD. “There was a clear and significant positive effect on the employment rate and the female labour force participation. Employment is estimated to have increased by 27 per cent between 1999 and 2002 due to immigration, and female participation by 10 per cent in ten years to reach 52 per cent.”

Migrant workers can add to the employment and income of nationals by releasing them to do higher-paid jobs. The clearest example of this is using migrant workers to look after children so that parents, typically mothers, can go out to work. The presence of migrant workers has also helped to

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<sup>29</sup>Peter Stalker, *International Migration*, New Internationalist publications, Oxford, 2001.



## ▷ Section 3 - Facts and figures about migrant workers ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

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### *Conclusion*

The search for Decent Work and the restrictions encountered, and obstacles faced by workers to migrate through legal channels, drives many migrant workers to use irregular methods of moving from one country to another.

Globalization produces rapid changes and the global workforce responds. So there are some dramatic changes in flows of migrant workers.

However, the number of migrant workers as a percentage of the world's labour force, has remained stable.

Prejudices and ill-conceived ideas often blur the reality of the scope and impact of labour migration and ignore the contribution migrants make to the global economy.

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### **Discussion points for Section 3**

- Is your country a country of origin for migrant workers, or a country of destination, or both?
  - What are the sources of statistics about migrant workers? (Disaggregated by sex etc.).
  - Does the government encourage migration for labour as a source of foreign exchange and to reduce unemployment?
  - Are the social and economic policies in place drawn up with trade union involvement? Do they challenge extreme poverty and inequality – the root causes of migration?
  - Is migration for labour a controversial topic? Do extremist groups use the issue, and does the trade union movement take a clear position against xenophobia, racism, and discrimination of migrant workers?
  - Why do myths about migrant workers persist?
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# Section 4

## Migrant workers and the global economy

### Section 4 at a glance

This Section looks at the contribution migrant workers make to the global economy.

Without migrant workers, many services and industries could not be provided. In developed countries, with declining populations, migrant workers are filling a demographic gap.

Migrant workers send substantial sums back to their countries of origin and these remittances, that are greater than official development aid, also provide vital foreign exchange.

Migration for labour may also have a negative side. In particular, when the migration of skilled workers results in labour shortages in key public sectors (e.g. health and education) in their home countries.

## The benefits of migrant labour

Migrant workers make a substantial economic and social contribution to the economies of countries of destination and their countries of origin. Migrant workers spend most of their income in host countries; they are consumers; and they pay taxes and social security contributions if they are allowed to work legally.

Migrants send home on average 13 per cent of their income in remittances, but spend 87 per cent in destination countries. Migration does create jobs. Migrant workers are consumers too. Many countries would be much poorer without migrants.

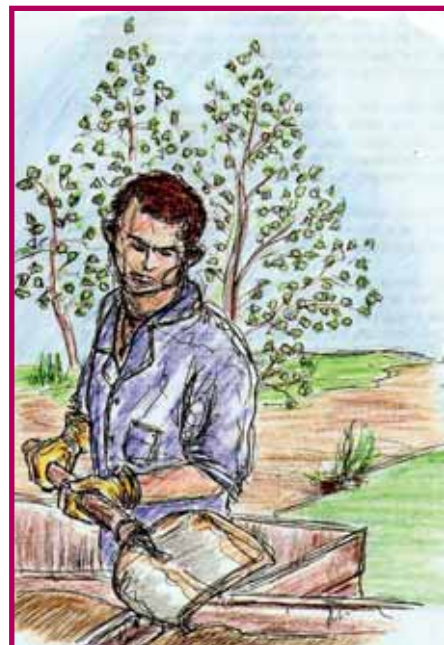
Many jobs would not be done without migrant workers. They keep public transport running, provide badly-needed health care, and without their work many farms, plantations, mines and factories could not produce the goods they sell. In 1991, the United States Government estimated that 73 per cent of all workers involved in crop production in the **United States** were born outside the country.<sup>31</sup> In the State of New York, migrant workers account for US\$229 billion: 22.4 per cent of its economic output.<sup>32</sup>

Migrant workers also contribute to making life better for the populations of receiving countries, for instance foreign domestic workers, by taking care of homes and children, contribute to improving the employment prospects and living standards of other categories of workers.

## Populations in decline: Filling the gap

Many of the most developed countries are now facing declining populations.

The European Union faces a population decrease of 20 million between now and 2050, which the ILO estimates could lead to a 20 per cent drop in the average standard of living in Europe. On present trends, the population of **Italy**, for example, would drop by 28 per cent and that of **Spain** by 24 per cent between 2000 and 2050. **Estonia** and **Latvia**, two new Members of the EU, will see their populations drop by 34 and 31 per cent respectively. **Japan's** population will decrease by 27 million (from 127 million to 100 million) by 2050 and could be as low as 64 million by 2100.



<sup>31</sup>Peter Stalker, *The work of strangers: a survey of international labour migration*, p. 31.

<sup>32</sup>*Working for a Better Life: A Profile of Immigrants in the New York State Economy*, Fiscal Policy Institute, New York, 2007, [http://www.fiscalpolicy.org/publications2007/FPI\\_ImmReport\\_WorkingforaBetterLife.pdf](http://www.fiscalpolicy.org/publications2007/FPI_ImmReport_WorkingforaBetterLife.pdf).

These declining populations have severe implications. How will basic services be sustained? Many commentators have suggested that migrant workers are certainly part of the answer to sustaining the economies and standards of living of these countries.

To keep their population constant, immigration levels in the big four EU countries – **France, Germany, Italy and the United Kingdom** – would have to triple, from 237,000 to 700,000 a year.

### The Russian Federation

The Russian Federation is, after the United States and Germany, the world's third leading destination for migrants. Currently, there are an estimated 3-4 million foreign workers – mostly from the Commonwealth of Independent States (CIS) – working in the Russian Federation.

They are needed, as Russian Federation's plummeting birth rates and rising mortality rate make it the fastest shrinking population in the world, declining by 0.5 per cent a year.

In 2004, 750,000 work permits were issued to foreigners to work in the Russian Federation. The federal migration service estimates that there are 10–14 million people living in the Russian Federation without registration.

It is thought that more than half the migrant workers in the Russian Federation – primarily from Central Asia, including the Caucasus, Kyrgyzstan, Moldova, Tajikistan and Ukraine – are unregistered. They live and work in often abysmal conditions, enjoy no protections from law enforcement authorities – although, conversely, they do pay taxes. Complicated procedures for work and resident permits leave migrants at the mercy of corrupt officials. Some employers also take advantage by recruiting workers while at the same time avoiding both paying social security contributions, and any liability in terms of secure employment.

The Government was considering major changes, including a possible amnesty to regularize the status of migrant workers.

(*The Economist*, 18 Feb. 2005).

### The pensions' crisis in rich countries

In many rich countries the number of pensioners will double in the next few decades.

According to UN projections, the proportion of the total population in 15 countries of the European Union (EU) of those older than 65 in 2050 will be 30.3 per cent, compared to 16.4 per cent in 2000. In Japan the proportion will rise from 17 to 32 per cent.

At present each older person in Europe is being supported by four to five active workers, but by 2050 this number will have reduced to two.

Policy-makers are grappling with this issue. Who will pay the pensions and who will support the retired workers? Who will fill the gap? Many suggest that migrant workers will have to fill much of the gap.

### European Union expansion and economic migration policy

Ten “new” countries joined the EU in May 2004. The EU is based on the principle of free movement within all Member States. But many policy-makers reacted to fears that a wave of workers from new Members would flood the labour markets of the “old” Member States. Many of the EU’s original 15 Member States including France, Germany and Italy demanded tough limits on economic migration from the ten “new” Member countries.

Free movement of persons is one of the fundamental freedoms guaranteed by European community law (Article 39 of the EC Treaty) and is also an essential element of European citizenship. Community rules on free movement of workers also apply to member States of the European Economic Area (i.e. to Iceland, Liechtenstein and Norway). The relevant rights are complemented by a system for the coordination of social security schemes and by a system to ensure the mutual recognition of diplomas.

The Accession Treaty allows for the introduction of ‘transitional measures’. Commonly referred to in EU circles as the ‘2+3+2-year arrangement’, this scheme obliged the member states to declare in May 2006, and again in May 2009, whether they will open up their labour markets for workers from the EU-8 (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) or keep restrictions in place. The restrictions will definitely end on 30 April 2011. A similar ‘2+3+2’ scheme is in place with respect to workers from Bulgaria and Romania, which joined the EU on 1 January 2007.

The policies relating to the free movement of workers from the EU-8 within the EU-15 states could be classified into four categories:

- **Keeping** the restrictions in place until at least 2009: Austria and Germany.
- **Lifting** the restrictions **gradually**, until 2009: Belgium, Denmark, France, Luxembourg, and the Netherlands.
- Keeping labour markets open/**removing** restrictions: Finland, Greece, Ireland, Italy, Portugal, Spain, Sweden, and the United Kingdom.

With respect to the 1 January 2007 enlargement, which brought Bulgaria and Romania into the EU, many former EU member states are more reluctant to open their labour markets. All EU-15 countries, with the exception of Finland and Sweden, decided to restrict Bulgarians’ and Romanians’ access to their labour market. Italy considers allowing Bulgarians and Romanians in once a European agreement on combating organised crime is found, and France announced that it will include workers from the two countries into its scheme of sectorial barrier-lifting. All EU-10 decided to open their labour markets – with the exceptions of Malta, which constricts access and Hungary, which imposes some conditions.

In the United Kingdom, according to government estimates, the new workers pumped about US\$350 million into the British economy. Fears that migrant workers would act as a drain on the economy appear unfounded. More than 95 per cent of migrant workers from the new Member States are working full time, while the numbers drawing state benefits, according to the Government, are “very low”.

“The general opinion is that this migration has been beneficial,” says Dr Martin Ruhs, from the Centre on Migration, Policy and Society at the University of Oxford, who has studied the impact of the inflow of workers into Ireland.

“It continues to meet a need in terms of filling labour shortages and there have been no adverse effects such as a rise in unemployment levels.”



## Remittances

Remittances, the money that migrant workers send home, play a very important role in the economy of many “origin” countries. In October 2007, a United Nations study estimated that migrants working in industrialized countries sent home more than US\$300 billion to their families in 2006 – more than the US\$104 billion provided by donor nations in foreign aid to developing countries. This is a conservative estimate; if informal channels are considered, the amount could be higher.<sup>33</sup>

<sup>33</sup>*Sending money home: Worldwide remittances to developing countries*, UN International Fund for Agricultural Development (IFAD), New York, 2007. <http://www.ifad.org>

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Table 3 Developing countries with highest remittance flows, 2003 and 2007 (US\$ billions)

US\$ (Billions)	2003	2007	Change
India	17.4	27.0	9.6
China	4.6	25.7	21.1
Mexico	14.6	25.0	10.4
Philippines	7.9	17.0	9.1
Bangladesh	3.2	6.4	3.2
Pakistan	4.0	6.1	2.1
Indonesia		6.0	
Egypt		5.9	
Morocco		5.7	
Poland	2.3	5.0	2.7
Viet Nam	2.7	5.0	2.3
Colombia	3.1	4.6	1.5
Brazil	2.8	4.5	1.7
Guatemala		4.1	
El Salvador		3.6	
Nigeria		3.3	
Dominican Republic		3.2	
Ecuador		3.2	

Source: World Bank.<sup>34</sup>

<sup>34</sup>Migration and Remittances Factbook, World Bank <http://go.worldbank.org/QGUCPJTOR0>

- **Morocco** received US\$5.7 billion – 10 per cent of its GDP – from money sent home by migrant workers in 2007.
- In 2007 remittances to the **Philippines** accounted for 13 per cent of its GDP.
- In 2007 **Bangladesh** received US\$6.4 billion in remittances from migrant workers, around 9 per cent of its GDP.
- In **Nepal**, remittances in 2007 contributed more to the country's foreign exchange than tourism, foreign aid, manufacturing exports and all other sources combined, around 18 per cent of GDP.
- Remittances sent home by migrant workers from **Tajikistan** in 2007, mainly working in the Russian Federation equal 36 per cent of the country's GDP.
- There is discussion among some governments and development organizations about how remittances could be used as an additional form of development finance. These funds are, of course, the private and hard-earned money of migrant workers and it is for them to decide how they should be used.

The cost to workers of sending money to their countries of origin can be very high, especially for smaller amounts. Governments should make it easier and cheaper for workers to send money to families and friends abroad.

Union Network International (UNI), one of the Global Union Federations, has raised the issue with postal trade unions, as post offices should be a cheap and easy way for migrant workers to transfer remittances.

## Transfer of investment and skills

If migrant workers return to their home country, they may invest their savings in useful services or businesses. They can apply the skills and knowledge they have learned. Statistics on the numbers are very hard to find, but in a number of countries such as **China, Republic of Korea and Taiwan (China)** a thriving economy and liberalized policies have “turned a brain drain into a brain gain”.<sup>35</sup>

## A boost to the economy of rich countries?

Do migrant workers contribute to the economy of the countries of destination? The contribution of migrants – including migrants in irregular situations – to the economy of the host country is often overlooked or even denied.

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<sup>35</sup>David Zweig, “Competing for talent: China’s strategy is to reverse the drain brain”, *International Labour Review*, Vol. 145 (2006) No. 1-2.  
<http://www.ilo.org/intranet/english/support/publ/revue/articles/2006-1-2/download/s4zweig.pdf>

Still, since it is known that migrant workers send on average 13 per cent of their income back to their country of origin, that means they spend 87 per cent in the host country. On the basis of the total amount of transfers, the contribution of migrant workers to host countries worldwide has a value of more than US\$1.6 trillion (1,600 billion dollars). The Organization for Security and Co-operation in Europe (OSCE), the International Organization for Migration (IOM) and the ILO stated in a recent publication: "Numerous studies show that migrants fill vital jobs unwanted by natives, and that their presence, activity and initiative create additional employment".<sup>36</sup>

## The "brain drain"

While host countries benefit from migrant workers, their absence can cause strain on the countries of origin. Migration has a downside as it may leave countries short of skilled workers. The country of origin will lose out, while the workers moving will benefit from better pay and working conditions.

About 100,000 workers left **Pakistan** annually in the 1970s and 1980s; 45 per cent of them were classified as skilled – leading to serious skill shortages.

Since **Poland** joined the European Union (2004), 800,000 workers have left the country to work in other Member States. This has left Poland with such a serious shortage of skilled workers that it may be unable to utilize European Union funds to modernize its infrastructure. In turn, Poland now receives migrants from **Belarus** and the **Ukraine**, who fill the gaps.<sup>37</sup>

### The "medical carousel"

Highly qualified nurses and doctors from English-speaking countries (usually former colonies) are recruited to work in the **United States** and the **United Kingdom**. There is a "medical carousel" of doctors moving from one country to another, to replace the doctors who have moved to better-paid positions elsewhere. For example, 60 per cent of doctors trained in Ghana have left that country. Each health professional who migrates represents a loss of US\$184,000. Ghana has to use doctors from Cuba, who often require interpreters. Out of 47 sub-Saharan countries, 38 fall short of the minimum WHO standard of 20 doctors per 10,000 people.

In many countries, structural adjustment programmes imposed by the World Bank and the International Monetary Fund have starved health services of cash. Skilled health workers in these countries therefore have every incentive to travel abroad where they will not only get better financial rewards, but will be able to use and improve their skills in well-equipped hospitals.

<sup>36</sup>*Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM and ILO, Geneva, 2006.

[http://www.ilo.org/public/libdoc/ilo/2006/106B09\\_499\\_eng1.pdf](http://www.ilo.org/public/libdoc/ilo/2006/106B09_499_eng1.pdf)

<sup>37</sup>*International Herald Tribune*, 18 Nov. 2006. <http://www.iht.com/>



## ▷ Section 4 - Migrant workers and the global economy

According to Public Services International, a Global Union Federation,

- ▷ The scarcity of qualified health personnel highlights one of the biggest obstacles to achieving the Millennium Development Goals (MDGs) in the health and well-being of the global population (Buchan, et al, 2004). The migration of health workers out of Africa is seriously compromising the implementation of malaria, tuberculosis, and HIV/AIDS programmes in the region. Around 620,000 more nurses are needed to tackle the HIV/AIDS epidemic in sub-Saharan Africa. But at the same time, around 23,000 African health professionals migrate to developed countries every year.

Furthermore, the movement of skilled health personnel from poorer to richer nations creates a “paradox of reversed development”. Based on **South African** migration statistics, the cost of the migration of nurses and doctors out of the country is equivalent to lost investments of about US\$1 billion, amounting to 17 per cent of the country’s public health expenditures in 2000.<sup>38</sup> The lack of health workers seriously hampers the capacity of countries to respond to the AIDS crisis that is widespread throughout sub-Saharan Africa.

### “Migration is seriously affecting the sustainability of health systems in many developing countries”

According to The Lancet, the UK’s leading medical journal, the health systems of developing countries have been badly damaged by the emigration of their doctors and nurses to developed countries. The UK has played a particularly prominent part in the process, with 31 per cent of its practising doctors having trained outside the UK. The UK’s chronic need to recruit doctors, nurses, and other health professionals from overseas is also increasing in comparison with other European countries of similar size. In France and Germany the proportion of practising doctors who are trained overseas is only around 5 per cent.

The Lancet comments: “Every rich country can afford and should aim to train as many health-care workers as it needs. To poach and rely on highly skilled foreign workers from poor countries in the public sector is akin to the crime of theft.”

<sup>38</sup>Public Services International, *Policy Statement on International Migration with Particular Reference to Health Services*, [www.world-psi.org-psi.org/Content/ContentGroups/English7/Equality\\_and\\_Rights/Equality\\_equity\\_diversity1/Migrant\\_workers/PSI\\_Migration\\_Policy.doc](http://www.world-psi.org-psi.org/Content/ContentGroups/English7/Equality_and_Rights/Equality_equity_diversity1/Migrant_workers/PSI_Migration_Policy.doc).

## ▷ Section 4 - Migrant workers and the global economy ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

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### *A balance sheet*

The balance sheet of migration for labour is mainly positive, especially for destination or host countries. Indeed, the migration debate is often expressed only in terms of the benefits for business and national economies. However, a trade union view does NOT see migrant labour as a market, like capital, goods, and services, subject to the dynamics of supply and demand. Labour migration must be regulated to benefit both migrant and national workers and attention should be paid to phenomenon such as the possible brain drain.

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### **Discussion points for Section 4**

- Which sectors of the economy in your country depend on migrant workers?
  - How much is sent/received as remittances from migrant workers in your country?
  - Has the Government tried to make it easier and cheaper for migrant workers to send remittances?
-



## Learning exercises for section 4

### Learning exercise: Migrant labour – Who benefits?

**Aim:** To think about the advantages and disadvantages of migrating for work from different points of view.

**Task:** 1. In your group, fill in the following table.

From the point of view of...	What are the advantages of migration for work?	What are the disadvantages of migration for work?
An unskilled migrant worker		
Skilled migrant worker		
Workers in destination countries		
Employers		
Countries of origin		
Destination countries		
Trade unions in countries of origin		
Trade unions in destination countries		
Employment agencies		



# Section 5

## The rights of migrant workers

### Remember!

Countries ratifying an ILO Convention commit themselves to applying the Convention in national law and practice and to reporting on its application at regular intervals. So it is important for trade unions to campaign for the ratification of ILO Conventions. All international labour standards, unless specified otherwise, apply to all workers, including migrant workers, regardless of their status.

### Section 5 at a glance

This Section describes the two specific ILO Conventions on labour migration that together provide a basic framework for national legislation and practice on managing labour migration. It also explains the ILO's supervisory system, and how trade unions can use the system.

This Section will also introduce the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). This is based on concepts and language drawn from the two ILO Conventions.

These three above-mentioned Conventions together provide a comprehensive "values-based" definition and legal basis for national policy and practice regarding migrant workers and their family members.

This Section covers:

- What is the rights-based framework for migrant workers?
- International labour standards for migrant workers.
- The ILO's core international labour standards and other international labour standards.
- The UN International Convention on the Protection of Rights of All Migrant Workers and Their Families.
- Labour laws.
- Making use of ILO standards: the role of trade unions.
- A checklist of migrant workers' rights under ILO standards.



### Where do human rights originate?

The most important step forward was the Universal Declaration of Human Rights adopted on 10 December 1948 by the UN General Assembly. It is still an inspiring document, and it proclaimed rights which workers, as human beings, are entitled to enjoy.

#### **From the Universal Declaration of Human Rights**

##### **Article 13**

Everyone has the right to freedom of movement and residence within the borders of each State.

Everyone has the right to leave any country, including his own, and to return to his country.

##### **Article 14**

Everyone has the right to seek, and to enjoy in other countries, asylum from persecution.

##### **Article 23**

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

### What are the main human rights treaties?

In addition to the UN Declaration on human rights, there are nine fundamental human rights' treaties that define basic, universal human rights and ensure their explicit extension to vulnerable groups worldwide. They are:

- 1 The International Covenant on Civil and Political Rights, 16 December 1966.
- 2 The International Covenant on Economic, Social and Cultural Rights, 16 December 1966.
- 3 The International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965.
- 4 The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984.
- 5 The Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979.
- 6 The Convention on the Rights of the Child, 20 November 1989.
- 7 The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990.
- 8 Convention on the Rights of Persons with Disabilities, 13 December 2006.
- 9 International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006.







## ▷ Section 5 - The rights of migrant workers ■■■■■■■■■■■■■■■■■■■■■■

Article 4 requires States to provide migrant workers with adequate and free services in connection with recruitment and job placement.

Article 7 provides that a member State should “ensure that the services rendered by its public employment service to migrants for employment are rendered free”. This also applies to private employment agencies through ILO Convention No. 181.

Convention No. 97 contains important protection provisions for migrant workers. For instance, they should have access to appropriate medical services (Article 5) and should be allowed to transfer their earnings and savings (Article 9).

Article 8 of Convention No. 97 prohibits the expulsion of migrants admitted permanently, in the event of incapacity for work. This is an important provision. In many countries, there remain questionable linkages between health status and job security or security of residence.

Some bilateral agreements signed between countries of origin and countries of destination contain language linking the termination of employment (and therefore expulsion) to a worker’s contraction of “HIV/AIDS or any other contagious disease”. Indeed a number of countries require migrant workers applying for jobs to undergo mandatory testing for HIV/AIDS or condition the renewal of the work permit on such testing. This is clearly a violation of human rights and goes also against the ILO code of practice on HIV/AIDS and the world of work. Such a requirement would also be regarded as contrary to Convention No. 97.

### HIV and international labour migration

More than 100 countries restrict people living with HIV from entering or remaining in a country for any purpose; international labour migrants may be refused entry or face deportation if they are found to be HIV-positive.

Where HIV testing occurs in the context of migration, internationally agreed standards for informed consent, confidentiality and counselling are not routinely applied.

Migrant workers receiving anti-retroviral treatment in the destination country may also have their treatment disrupted by deportation if, in the country to which they return, they cannot access HIV services.

The main government rationales for HIV-related travel restrictions are to protect public health and to avoid excessive health care and other economic costs perceived to be generated by HIV-positive non-nationals. There is no public health justification for such restrictions. HIV is not transmitted casually and everyone, whether HIV-positive or –negative, national or non-national, can prevent further transmission by practicing safer behaviours. Thus travel, and migration, by HIV-positive people in itself does not entail a risk to public health.

From HIV and International Labour Migration Policy Brief – produced jointly by UNAIDS, ILO, IOM (July 2008).<sup>40</sup>

<sup>40</sup>HIV and International Labour Migration Policy Brief – produced jointly by UNAIDS, ILO, IOM (July 2008) ([http://data.unaids.org/pub/Manual/2008/jc1513\\_policybrief\\_labourmigration\\_en.pdf](http://data.unaids.org/pub/Manual/2008/jc1513_policybrief_labourmigration_en.pdf))







Recommendation on these points. The Committee noted that migrant workers are sometimes allowed to be employed illegally for a number of years in a country, with no decision being taken relating to their status. This leaves them in a situation of permanent uncertainty in which they are far more vulnerable to abusive conditions. In order to avoid such situations, the Committee emphasized the importance of rapid detection of migrant workers in an irregular situation and a decision as to whether to regularize them. Illegal employment of migrant workers partly results from a certain tolerance by States. The consequences of the slowness of existing proceedings, and the incapacity of States to effectively detect whether migrants are illegally employed in their territory, ought not to fall exclusively upon migrant workers in an irregular situation, the ILO Committee of experts said. Although this is not explicitly covered in these instruments, the Committee considered that as a matter of equity in such cases, the State concerned should examine, on a case-by-case basis, the situation of each migrant worker in an irregular situation who has been living for a certain length of time in the country, and consider the possibility of delivering a residence permit.

### *The Migrant Workers Recommendation, 1975 (No. 151)*

Recommendation No. 151 consists of three parts. Part I deals with practical measures to ensure respect for the principles of equality of opportunity and treatment. It reaffirms the rights of migrant workers, including those in an irregular situation, to join trade unions and exert their trade union rights. It calls on the authorities to make sure that migrants who are in an irregular situation are rapidly informed as to whether their status can be regularized. In case of deportation, the migrant should not be asked to bear the cost of the operation.

#### **The case for regularization – An example from the United Kingdom**

Official figures suggest the UK has an irregular migrant population of up to 570,000. It is varied in character consisting of – among others – clandestine or trafficked migrants, failed asylum-seekers and overstayers. What they all have in common is that they have entered or remain in the UK in an unregulated immigration capacity.

Living in fear of deportation, they are consequently without means to enforce their rights, and are one of the most disadvantaged and exploited segments of the population.

“Regularization” is the name of the process which would enable this group to earn authorization in a regulated immigration capacity and, free of the threat of deportation, be better able to realize their rights and less prone to exploitation. “Regularization” is different from amnesty because it is a managed process. The term also acknowledges that irregularity in immigration status is primarily a by-product of regulations that need changing and is not an inherently criminal activity.

Earlier this year it was estimated that regularization, by capturing hitherto lost taxation, national insurance contributions and other revenues, could net the Treasury up to US\$2 billion a year. This can be set against the potential US\$9.4 billion cost of deporting the entire irregular migrant population.

*From a briefing produced by the Joint Council for the Welfare of Migrants (JCWI) [www.jcwi.org.uk](http://www.jcwi.org.uk).*





## ▷ Section 5 - The rights of migrant workers

### *Key points of the ILO's core Conventions are:*

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Guarantees the removal of acts of discrimination against trade unions; the protection of employers' and workers' organizations against mutual interference; and calls for measures to promote collective bargaining. Article 2 is vital: *Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.* 149 ratifications as at 14 July 2008.

### *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*

Protects workers who are exercising the right to organize; upholds the principle of non-interference between workers and employers organizations; and promotes voluntary collective bargaining. 159 ratifications as at 14 July 2008.

### *Forced Labour Convention, 1930 (No. 29)*

Aims at the immediate suppression of all forms of forced or compulsory labour, with exceptions such a military service, convict labour, and during emergencies such as war, fires and earthquakes. Ratified by 173 countries as at 14 July 2008 – the most widely ratified Convention.

### *Abolition of Forced Labour Convention, 1957 (No. 105)*

Provides for the abolition of all forms of forced or compulsory labour as a means of political coercion or education; as sanctions against the free expressions of political and ideological opinions; as workforce mobilization; as labour discipline; as a punishment for taking part in strikes; and as measure of discrimination. 169 ratifications as at 14 July 2008.

### *Equal Remuneration Convention, 1951 (No. 100)*

Underscores the principle of equal remuneration between men and women, for work of equal value. 166 ratifications as at 14 July 2008.

### *Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*

Provides for a national policy designed to eliminate, in respect of employment and occupation, all direct and indirect discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin. 168 ratifications as at 14 July 2008.

### *Minimum Age Convention, 1973 (No. 138)*

Applies to all sectors of economic activity; States must declare a national minimum age for admission to employment; all children are covered whether or not they are employed for wages; States must pursue a national policy to ensure the effective abolition of child labour; the minimum age for entry into work shall not be less than that for the completion of compulsory schooling (although a lower age than 14 years may be adopted for light work, for countries which are less developed); an age level of 18 is set for hazardous work. 150 ratifications as at 14 July 2008.





## ▷ Section 5 - The rights of migrant workers ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

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Regulating employment agencies properly would play a very important role in ensuring migrant workers' welfare. Only 20 countries have ratified this Convention, and very few of these are large "origin countries".

**Article 8 of the Convention is particularly concerned with preventing abuses of migrant workers.**

- ▷ 1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.
  2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.
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### *Employment Relationship Recommendation, 2006 (No. 198)*

A new Recommendation, adopted by the International Labour Conference in 2006, deals with the employment relationship. It is concerned with establishing when a genuine worker–employer relationship exists. The use by unscrupulous employers of disguised employment relationships to avoid legal obligations to workers, and to discourage union organization, is on the increase.

**Migrant workers are more likely to be involved in these "informal" employment relationships. The Recommendation states:**

- ▷ 7. In the context of the transnational movement of workers:
    - (a) in framing national policy, a Member should, after consulting the most representative organizations of employers and workers, consider adopting appropriate measures within its jurisdiction, and where appropriate in collaboration with other Members, so as to provide effective protection to and prevent abuses of migrant workers in its territory who may be affected by uncertainty as to the existence of an employment relationship;
    - (b) where workers are recruited in one country for work in another, the Members concerned may consider concluding bilateral agreements to prevent abuses and fraudulent practices which have as their purpose the evasion of the existing arrangements for the protection of workers in the context of an employment relationship.
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## List of International Labour Conventions and Recommendations referred to in the ILO's Multilateral Framework on Labour Migration<sup>41</sup>

### Fundamental Conventions

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

### Migrant-specific Instruments

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migration for Employment Recommendation (Revised), 1949 (No. 86)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Migrant Workers Recommendation, 1975 (No. 151)

### Other ILO Conventions

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- Labour Inspection Convention, 1947 (No. 81)
- Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
- Protection of Wages Convention, 1949 (No. 95)
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Plantations Convention, 1958 (No. 110)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Minimum Wage Fixing Convention, 1970 (No. 131)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- Nursing Personnel Convention, 1977 (No. 149)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Occupational Health Services Convention, 1985 (No. 161)
- Safety and Health in Construction Convention, 1988 (No. 167)
- Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
- Safety and Health in Mines Convention, 1995 (No. 176)
- Private Employment Agencies Convention, 1997 (No. 181)
- Maternity Protection Convention, 2000 (No. 183)
- Safety and Health in Agriculture Convention, 2001 (No. 184)

<sup>41</sup>The ILO Multilateral Framework on Labour Migration: non-binding principles and guidelines for a rights-based approach to labour migration [http://www.ilo.org/public/libdoc/ilo/2006/106B09\\_343\\_eng1.pdf](http://www.ilo.org/public/libdoc/ilo/2006/106B09_343_eng1.pdf)  
ISBN: 92-2-119118-4 & 978-92-2-119118-6

## Making use of ILO standards: the role of trade unions

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A range of possibilities is provided to trade unions to ensure that the provisions of the Conventions are reflected not only in their national laws, but also in practice.

### *Reports on ratified Conventions*

First of all, in virtue of the Constitution of the ILO (Article 22), governments are required to submit regular reports on the Conventions that they have ratified. For most Conventions reports are due every five years (this is the case for Convention Nos. 97 and 143) but for the so-called “fundamental Conventions” (see page 75), they are due every two years. The same applies to those described as “priority Conventions”<sup>42</sup>, dealing with labour inspection, employment policy, and tripartite consultation. These reports are submitted on the basis of a questionnaire prepared by the Governing Body which must reach the Office each year between 1 June and 1 September. In the countries that have ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the governments are obliged to consult employers’ and workers’ organizations in preparing their reports. But even in those countries that have not ratified Convention No. 144, the governments are required under Article 23(2) of the Constitution to submit a copy of their reports to representative trade union organizations, thus enabling them to make their own comments.

From the perspective of workers, all trade union bodies should make it a point of duty to submit comments to the International Labour Office so that it can gauge the situation exactly. In the absence of these comments, only those submitted by the governments will serve to determine the situation in a given country. These comments are studied by a Committee of independent experts from a legal standpoint. The analysis of that Committee is published in the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) which is circulated to all member States, and to governments and employers’ and workers’ organizations. Each year, the tripartite Committee on the Application of Standards, which meets during the International Labour Conference and reports to the latter, studies the cases mentioned by the experts and, at the proposal of the Workers’ and Employers’ groups, may call on governments to come and give account of the situation in their country. Not a single year goes by without the Experts deploring the paucity of comments received from trade union organizations in its general remarks. Yet it is a crucial stage in the hierarchy of means made available to trade union organizations as it very often serves to prevent more extensive violations.

### *Reports on non-ratified Conventions*

As pertains to non-ratified Conventions, the Governing Body decides each year on a subject (Convention and Recommendation, as appropriate) for detailed reporting by member States, even if they are not party to the Convention in question. Here again, trade union organizations can play

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<sup>42</sup>There are four Conventions described as priority Conventions: the Labour Inspection Convention, 1947 (No. 81), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). <http://www.ilo.org/ilolex/index.htm>

































# Section 6

## What next: the role of trade unions

This manual began by stressing that migrant workers must be on trade unions' agendas. If trade unions do not put migrant workers on their agendas, they will find that governments, employers, and extremist groups will put them on theirs.

### Section 6 at a glance

This Section is about how trade unions can work for the rights of migrant workers. Trade unions are already doing a great deal, and based on this experience there is a clearly emerging union agenda.

It does not matter if your union is in an origin or destination country, there is plenty to do!

Four pillars of trade union strategy are discussed:

- Promoting a rights-based migration policy.
- Creating alliances with trade unions in other countries.
- Educating and informing union members, especially shop stewards and officers.
- Reaching out to migrant workers.

This is one of the longest sections in the Manual – and that is quite right, as this is a Manual for trade unions!

▷ Section 6 - What next: the role of trade unions



Like any other issue that trade unions face, there are some basic principles.

- **An injury to one is an injury to all.**
- **United we stand, divided we fall.**
- **Educate! Agitate! Organize!**

These slogans and other similar ones, appear on countless trade union banners, newspapers and posters all over the world.

All that is needed is to apply these basic trade union principles. Many unions have started to do so – and as a result, have gained new members.

The tools and policies are in place. The examples of good practice are documented.

The new ILO Multilateral Framework on Labour Migration is the latest tool that can be used.

ILO Conventions should be promoted, ratified, and implemented.

It is now up to trade unionists to put into practice the principles and lessons described in this Manual.



Political action, a trade union social charter for migrant workers, antiracist campaigns and special training, collective agreements, recruitment and promotion strategies in cooperation with the employers, organizing among migrant workers, specific assistance and services – at work and in society at large, trade unions are engaged in a struggle against racism, xenophobia and the many prejudices to which migrant workers are subject.

Natacha David, "Migrants Get Unions Back to Basics,"  
*Labour Education* 2002/4, Number 129, pp. 71–75.<sup>44</sup>

## Introduction

Trade union action on migrant workers is not new. In the nineteenth century many European migrant workers in the **United States** brought trade union traditions with them, and bitter struggles were fought to build unions.

Between the 1950s to the 1980s, most trade unions in countries of destination in **Europe** had established special departments dealing with migrant workers issues, had publications in various languages spoken by the immigrant communities, and recruited them into their organizations.

<sup>44</sup><http://www.ilo.org/public/english/dialogue/actrav/publ/129/129.pdf>









**European trade unions show solidarity**

The European Trade Union Confederation (ETUC) adopted a proactive position in March 2005 (see box).

**Towards a proactive EU policy on migration and integration**

**1. Introduction**

ETUC is highly committed to fighting for a Europe characterized by openness, solidarity and responsibility, as expressed on numerous occasions. This resolution builds on previous ETUC resolutions and positions on this issue, adopted since the Helsinki congress 1999.

**2. Key elements of a proactive approach**

In the interest of Europe's current and future population, ETUC is convinced that it is time to adopt a more pro-active EU policy on migration and integration that is based on the recognition of fundamental social rights of current citizens as well as newcomers, and that is embedded in strong employment and development policies. Such policy should, in an integrated approach:

- (a) be based on a clear framework of rights for all the workers concerned, as provided for in all the relevant international Conventions and instruments, recognizing that migrant workers and their families are human beings and not merchandise, and building on the ILO "Resolution concerning a fair deal for migrant workers in a global economy" adopted in June 2004, calling for a rights-based approach to labour migration;
- (b) be established in close consultation with social partners;
- (c) guarantee the free movement of all persons who are either citizens of an EU Member State or third country nationals who are legal residents, in a framework of non-discrimination and equal treatment;
- (d) provide for a clear legal framework of equal treatment in working conditions for all lawfully employed third country nationals as compared to nationals, and respect for the host country's rules and regulations and industrial relations systems;
- (e) prioritize investing in the capacities and qualifications of unemployed or underemployed EU citizens including those from a migrant or ethnic minority background, as well as legally resident third country nationals including recognized refugees, as a first priority in tackling labour market shortages;
- (f) increase efforts to combat racism and xenophobia, and promote the full integration of migrants and ethnic minorities into European labour markets and societies, whilst respecting cultural and religious diversity, and recognizing their positive contribution and potential;
- (g) attribute social and political citizenship rights to migrant workers and their family members;
- (h) open up possibilities for the admission of economic migrants, by providing a common EU framework for the conditions of entry and residence. It should be based on a clear consensus between public authorities and social partners about real labour market needs, and at the same time prevent a two-tier migration policy that favours and facilitates migration of the highly skilled while denying access and rights to semi- and low-skilled workers;
- (i) be tough on employers using exploitative employment conditions and focus on prevention and on sanctioning those who profit from these abusive situations, including traffickers in human beings, rather than penalizing the workers who are their victims;
- (j) create "bridges" out of "irregular situations" for undocumented migrant workers and their families, including asylum-seekers who have been denied a refugee status, while respecting their basic human rights;
- (k) promote cooperation and partnership with third countries and in particular developing countries.

Last but not least, such policy should acknowledge the major importance of strengthening the European social model in providing and maintaining basic protection for all Europe's inhabitants, to counter increasing feelings of social insecurity by millions of workers that may feed into racism and xenophobia, and to help the trade union movement play its cohesive role.

March 2005









- Tripartite procedures to ensure that trade unions are consulted on labour migration issues and their views taken into account.
- Establishing and strengthening national procedures of social dialogue to ensure consultation on all aspects of labour migration.
- Ensuring that all policy is guided by international labour standards and other relevant international instruments, and multilateral agreements concerning migrant workers.
- Ensuring that labour migration policies are gender-sensitive, address the problems and particular abuses women often face in the migration process, and recognize gender equality as integral to the process of policy-making, planning and programme delivery at all levels.
- Ensuring that trade unions play a key consultative role in all issues relating to assisting and supporting migrant workers.

In brief, there is an emerging consensus that international and national policies and practices can ensure that migration serves as a force for human welfare and development, instead of leading to abuse and exploitation, unregulated transnational movement and xenophobic hostility.

The ILO Multilateral Framework on Labour Migration is a useful tool for trade unionists in arguing for such a comprehensive approach.

### *Social dialogue*

As labour migration is a labour market issue, it is sensible that those organizations with experience of the labour market should discuss and try to agree on policy. This means social dialogue – and not leaving labour migration policy to be determined by a bidding war of which political party will do the most to “keep out migrants”. The apex bodies of trade unions at national and international levels should, in their role as social partners, continuously engage with, and seek to influence, national and global policy relating to migrant workers. Where possible, trade unions should be represented on specialized enforcement bodies such as equality commissions and human rights commissions which often have an advisory role as well as monitoring and investigating powers.

Trade unions have the social authority and political legitimacy to play a leading role in national and international efforts to address labour migration in a framework of Decent Work and human rights. Indeed it is critical that they do so.

Support from trade unions and consultation with employers and workers’ organizations in **Spain** led to the adoption of new rules (in April 2005). Without the support of social partners, no government could risk embarking on such a major operation. Indeed, in February 2005, the Government announced a regularization programme, which was designed and implemented through extensive consultation with workers’ and employers’ organizations. It permits migrant workers (who have registered with local governments for at least six months, do not have criminal records, and have the necessary skills for their jobs) to regularize their status. Domestic workers are eligible to apply. Those regularized are given work and residency permits for one year. Employers who intend to



## ▷ Section 6 - What next: the role of trade unions

employ migrant workers for certain minimum time periods, depending on the sector, and who do not themselves owe taxes, may request regularization of their workers. A large majority of the applications for regularization have been accepted, with the highest percentages in domestic work, construction, agriculture and hotels, respectively. An estimated 700,000 migrants were able to benefit from the programme and 150 offices were opened to register the workers.

Tripartite supervision of bodies that regulate migration is a way of institutionalizing social dialogue. The **Philippines** Overseas Employment Administration (POEA) has a tripartite governing board consisting of the Secretary of Labor and Employment, representatives of other concerned government departments, a workers' representative from the Trade Union Congress of the Philippines, and an employers' representative from the association of private recruitment agencies.

In **Africa**, thanks to an ILO project, national social dialogue mechanisms specifically addressing labour migration have been established in 11 countries: **Algeria, Burkina Faso, Cape Verde, Gambia, Kenya, Mali, Mauritania, Morocco, Senegal, United Republic of Tanzania, and Tunisia**. National seminars have achieved agreement on priorities for national advocacy for adoption of international standards, for research and for improving labour migration data collection and dissemination.

### **Universal principles**

Once again *unless otherwise specified, all ILO Conventions and Recommendations apply to all workers, including all migrant workers*; they apply whether they are temporary or permanent migrant workers and to those in a regular or irregular situation, even if certain provisions may not always be applicable to undocumented migrant workers.

The ILO's fundamental principles and rights at work are universal and applicable to all workers in all States, regardless of whether they have been ratified or not.

These universal principles have been agreed by governments and employers at the International Labour Conference, and trade unions need to remind them of what they have agreed and the obligations they have freely undertaken.

### **Public service workers**

In May 2003, the Global Union Federation Public Services International (PSI) set up a long-term project to address the issue of migration of women health workers.

The project has three main components:

- International capacity building;
- Information and exchange of best practices;
- International policy formulation and advocacy.

The first phase entailed developing research focusing on what national trade unions in developing countries were doing to address the issue of migrant health sector workers. Over 50 surveys were







*Leaving home – Organizing in countries of origin*

One way trade union organizations can ensure that migrant workers are “better prepared” for their lives away from their country of origin is to support and organize them prior to migration. There are now several examples demonstrating the advantages of unionizing migrant workers in “origin countries” before they migrate.

**Belgian** trade unions are promoting dialogue with unions from origin countries through workshops and drop-in centres and **French** unions have established offices in the origin countries where information on rights and union membership is available.

Trade unions in countries of origin are also keen to initiate cooperation (and networking) with unions in destination countries – as well as continuing to keep in touch with their own “expatriate members”: For example:

- National trade union centres are keen to maintain links with their expatriate membership. The **Senegalese** union federation, Union nationale des syndicats autonomes du Sénégal (UNSAS) is one case in point. Another is the **Dominican Republic’s** Confederación Nacional de Trabajadores Dominicanos (CNTD).
- The General Federation of Nepalese Trade Unions (GEFONT)<sup>50</sup> has branches for Nepalese workers in **India**. It has published a book, in Nepali, based on real-life stories of migrant Nepali workers in different countries. The collection contains 43 individual stories, both sad and successful, of workers in **Hong Kong (China), Japan, the Republic of Korea, the Middle East** and other countries.
- The Ceylon Workers’ Congress (CWC) in **Sri Lanka**, the Union marocaine du travail (UMT) in **Morocco**, and the Confederação General dos Trabalhadores **Portuguese**-Intersindical Nacional (CGTP-IN); all of which organize in countries of origin, testify to the fundamental importance of coordinating with union organizations in countries of destination. Most of the trade union centres in countries of origin have adopted policies for assisting migrant workers on their return.

**Pillar 4: Reaching out to migrant workers**

Migrant workers are not passive. By definition, they are amongst the most enterprising, and determined people – being willing to travel and work in a different country requires some boldness and even courage.

Migrant workers must therefore be at the centre of trade union strategies about migrant labour.

Trade unions must work to protect migrant workers through initiatives in both origin and destination countries. The principles of Decent Work and a rights-based approach should be fully integrated in all organizing, advocacy and campaigning activities.

<sup>50</sup>See GEFONT’s web site, <http://www.gefont.org>.













## ▷ Section 6 - What next: the role of trade unions ■■■■■■■■■■

- Help to familiarize themselves with their new local community – with mailing lists for information, invitations to cultural and political events.
- The opportunity to get involved in local activities – working groups dealing with professional issues, for example, or training courses.
- Information on working conditions, banking, tax, housing, school, health care and pensions.
- Advice on employment issues, contracts or local labour laws and collective agreements.
- Legal support if things go wrong with employers.

### ***Organize and fight!***

The 2008 Global Report *Freedom of association in practice: Lessons learned*,<sup>52</sup> drawn up as part of the follow-up to the ILO's 1998 Declaration on Fundamental Principles and Rights at Work,<sup>53</sup> stressed that legislation in a number of countries still limits trade union rights for migrant workers. Membership in mainstream and strong trade unions and federations alongside with nationals gives migrants greater voice in society and the world of work, thereby ensuring their equal rights and providing a disincentive to forced labour and trafficking of migrants. The 2008 Global Report also noted that over the last decade, the attitude and engagement of the trade union movement as a whole has clearly given priority to organizing migrant workers and promoting their rights, regardless of their immigration status. Major policy shifts, followed by extensive organizing drives among migrant workers, have been conducted by mainstream trade unions and national confederations across **Europe** as well as in **Africa, the Americas** and **Asia**. The trade union movement has always played an important role in promoting the integration of migrant workers into host country societies. When organized in trade unions, migrant workers can participate in discussions affecting their role in society and their contribution to economic and social progress; they can take part in the elaboration of trade union policy, they can vote to elect their representatives and, in most countries, are eligible for leadership positions.

The unionization of migrant workers is an essential step towards realization of the effective recognition of their right to collective bargaining. Equality needs to be promoted within unions; and migrant trade union representatives should be able to sit side-by-side with others when collective agreements are negotiated. Such agreements can include clauses dealing with discrimination based on sex, race and religion – to which migrant workers are particularly vulnerable.

Irregular migrants are most at risk of being subjected to forced labour and exploitation but regular migrants can also be denied both their human and labour rights. The fact that so many are denied the right to join a trade union is another reason why the national and international trade union movements have mobilized around migrant worker issues. As the ITUC says:

<sup>52</sup>[http://www.ilo.org/public/libdoc/ilo/P/2008/09382\(2008-97\)103.pdf](http://www.ilo.org/public/libdoc/ilo/P/2008/09382(2008-97)103.pdf)

<sup>53</sup>Please refer to Section 33, on the facts and figures of migrant workers, for more information about the Declaration.

- ▷ The fundamental concern of the trade union movement has been the struggle to secure the right of workers to form and join independent trade unions and to bargain collectively with their employer. This is the very basis of trade union organization and is still its highest priority... The basic trade union rights are the right to form or join a trade union, the right to bargain collectively and the right to strike.
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### Protecting migrant workers

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In the **Netherlands**, the Confederation of Trade Unions (FNV) opened membership to undocumented migrant workers in 2000. In the United States, UNITE HERE (the Union of Needletrades, Industrial and Textile Employees, and the Hotel Employees and Restaurant Employees) is negotiating clauses obliging employers to inform the union of impending visits by immigration officials, in response to some employers threatening to denounce undocumented immigrant workers who tried to organize.

#### *Migrant workers' unions*

The best place for migrant workers is in a well-established trade union in their country of destination, with special measures to help them organize – such as their own section and literature in their own languages. In a number of cases, where legislation discriminates against migrant workers, this may be difficult. In these situations, some structures such as migrant worker unions may be necessary.

Another way of organizing would be a structure that links migrant workers who are members of different sectoral unions into a group for mutual support and help, within a national centre. These structures should be run by the migrants themselves with the support of national centres.

Examples include the **Indonesian** Migrants Union (IMWU), the **South Korean** Migrants' Trade Union (MTU), affiliated to the **Korean** Confederation of Trade Unions (KCTU).

The Indonesian Migrant Workers Union (IMWU) was established in **Hong Kong (China)**, in 2000 and now claims 2,500 women migrant domestic workers organized in some 20 trade unions, which have the support of the Hong Kong Congress of Trade Unions (HKCTU).

#### *Domestic workers*

Even those migrant workers who are traditionally isolated, hidden and super-exploited, such as women domestic workers, can be organized.

Associations of domestic workers have established some form of collaboration with existing trade unions, and members of such associations have joined existing trade unions. In some cases trade unions have been a driving force for the organization of domestic workers.

## ▷ Section 6 - What next: the role of trade unions ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

Organizing domestic workers requires innovative strategies and approaches. The provision of a wide range of services, including addressing lack of self-esteem and awareness, is crucial to attracting domestic workers. The **Costa Rican Domestic Workers' Association (ASTRADOMES)**, which was set up in 1991, adopted a holistic approach, providing domestic workers with services such as a telephone helpline, advice, support, legal and social guidance, temporary shelter for dismissed workers and training on various subjects including both labour rights and duties. The union has many female migrant worker members, primarily from **Nicaragua** and also from **El Salvador, Guatemala** and **Honduras**. It advocates for increased coverage of domestic workers in labour laws.



### *Exposing abuse*

Trade unions, with their presence throughout the world of work, are well placed to identify abuse of migrant workers. They may observe this in the suppliers or customers of their own employers or as they go about their communities. They may also use the ILO supervisory procedures (see page 82) to report violations of ILO standards.

Trade union members can be encouraged to report their suspicions. The issue of abuse of migrant workers can be included in trade union education programmes and in union magazines for members. This would include abusive employment agencies and identifying those involved in trafficking.











**Learning exercise: Obstacles to organizing.**

<b>Aim:</b>	To think about barriers to organizing migrant workers.
<b>Task:</b>	
1.	Here is a list of some obstacles to organizing (based on a British TUC <sup>54</sup> document).
2.	What other obstacles can you think of and what can unions do to overcome these barriers to migrant workers joining? <ol style="list-style-type: none"><li>1. Migrant workers are often working in the least organized industries, such as agriculture, hotels and tourism.</li><li>2. The actual status of workers may be unofficial (for example undocumented migrants) or ambiguous (for example, employed students) and these workers may not wish to call attention to their presence in the labour force by joining a trade union.</li><li>3. Differences in languages can be serious obstacles to communicating with migrant workers.</li></ol>

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<sup>54</sup>Trades Union Congress (UK) <http://www.tuc.org.uk/>



**Learning exercise:** Are we migrant worker-friendly?

**Aim:** Organizing effectively.

- Task:**
1. Examine the activities/constitution/rules of your trade union or your apex level organization.
  2. How easy is it for a migrant worker to join? What obstacles exist?
  3. How do we make our trade unions attractive and welcoming to migrant workers?
  4. Can we accept any obstacle, including law, that prevents any migrant worker joining our unions?
  5. In particular, should we recruit migrant workers in irregular situations?
  6. Do we need to change our union constitutions? Can we change these rules easily?

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## ▷ A migration glossary

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As so much emotive language is used about migrant workers, this glossary provides the definitions used, under international law, for some of the terms used both in this manual, and in the debate about migrant labour.

Most of these definitions are taken from the ILO thesaurus, available online at:  
<http://www.ilo.org/public/libdoc/ILO-Thesaurus/english/index.htm>

Some of the definitions are taken from the International Organization for Migration (IOM), available at:  
[http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/serial\\_publications/Glossary\\_eng.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/Glossary_eng.pdf)

Other definitions can also be found at UNESCO's Glossary on Migration, available at:  
<http://www.unesco.org/shs/migration/glossary>

### *Asylum-seeker*

Described by the UN as "someone who has made a claim that he or she is a refugee and is awaiting the determination of his or her status." The term contains no presumption either way – it simply describes the fact that someone has lodged the claim. Some asylum-seekers will be judged refugees and others will not.

See also: *Refugee*

### *Brain drain*

The loss suffered by a country as a result of the emigration of highly qualified personnel

### *Forced migration*

Includes not only refugees and asylum-seekers, but also people forced to move due to external factors, such as environmental catastrophes, or development projects.

### *Green Card*

A Green Card allows an immigrant to live permanently in the United States. There are some restrictions on the period of stay away from the United States to maintain its continued validity. There are several types of Green Card, mostly given to people sponsored by their companies, people who are related to someone in the United States, or those seeking asylum.

### *H-1B visa*

The United States' H-1B programme allows an employer to temporarily employ a foreign worker in the United States on a non-immigrant basis, in a specialty.

### *Human trafficking*

See: *Trafficking in persons*

### *Illegal migrant*

This is a meaningless term, and should always be avoided. A person cannot be illegal! (See page 44.)

### *Irregular migration*

The movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents, carrying false documents, or overstaying a valid visa.

### *Migrant*

The UN Population Division defines a migrant as a person outside his/her country of birth or citizenship. Definitions vary between: "any person who lives temporarily or permanently in a country where he or she was not born" and "someone who enters a country other than that of which they are a citizen for at least 12 months".





## ▷ Selected reading and web sites on migrant workers

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### ILO publications

The ILO web site on migration:

<http://www.ilo.org/public/english/protection/migrant/index.htm>

Stalker, P. *The work of strangers: A survey of international labour migration*, ILO, 1994.

—. 2000. *Workers without frontiers: The impact of globalization on international migration*.

Committee of Experts on the Application of Conventions and Recommendations, General Survey on Migrant Workers, 1999. All General Surveys can be found at:

<http://www.ilo.org/ilolex/english/surveyq.htm>

ILO: *Migrant workers*, Labour Education 2002/4 No. 129. Labour Education is a quarterly publication produced by the ILO Bureau for workers' activities.

International Labour Conference, 92nd Session, 2004, Report VI, *Towards a fair deal for migrant workers in the global economy*, Geneva 2004. Downloadable at:

<http://www.ilo.org/public/english/standards/relm/ilc/ilc92/reports.htm>

ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration, Geneva, 2005. Downloadable at:

<http://www.ilo.org/public/english/protection/migrant/areas/multilateral.htm>

ILO: Trafficking in human beings: New approaches to combating the problem, Geneva, Special Action Programme to Combat Forced Labour, Geneva, 2003.

Labour migration policy and management: Training modules, ILO Bangkok, 2005.

Rules of the Game. A brief introduction to international labour standards, Geneva, 2005. Downloadable at:

[http://www.ilo.org/global/What\\_we\\_do/InternationalLabourStandards/InformationResources/Publications/lang—en/index.htm](http://www.ilo.org/global/What_we_do/InternationalLabourStandards/InformationResources/Publications/lang—en/index.htm)

*International Labour Review*, Vol. 145, No. 1-2, 2006, special Issue on Migration.

The World Commission on the Social Dimension of Globalization was established by the ILO in 2002. The Commission was an independent body. It was initiated to respond to the needs of people as they cope with the unprecedented changes that globalization has brought to their lives, their families, and the societies in which they live. The Commission's final report, *A fair globalization: Creating opportunities for all* was released in 2004: <http://www.ilo.org/fairglobalization/lang—en/index.htm>

The ILO International Labour Migration Programme has produced a series of papers that are intended to contribute to understanding current issues and debates on international migration: <http://www.ilo.org/public/english/protection/migrant/info/publ.htm>

### Web resources

United Nations system

United Nations, Department of Economic and Social Affairs World Economic and Social Survey 2004, Trends and Policies in the World Economy, New York.

<http://www.un.org/esa/policy/wess/wess2004files/part1web.pdf>

## ▶ Selected reading and web sites on migrant workers

United Nations, Department of Economic and Social Affairs World Economic and Social Survey 2004 (Part 2) International Migration, New York.  
<http://www.un.org/esa/policy/wess/wess2004files/part2web/preface.pdf>

The United Nations High Commissioner for Human Rights is responsible for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The website for matters relating to the Convention is: [http://www.unhchr.ch/html/menu3/b/m\\_mwctoc.htm](http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm)

UNESCO International Migration and Multicultural Policies  
[http://portal.unesco.org/shs/en/ev.php-URL\\_ID=1211&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/shs/en/ev.php-URL_ID=1211&URL_DO=DO_TOPIC&URL_SECTION=201.html)

### Trade union web sites

The European Trade Union Confederation (ETUC) has a number of documents on its web site:  
<http://www.etuc.org>

For ETUC policy: <http://www.etuc.org/a/1159>

For a report of a conference on migrant domestic workers: <http://www.etuc.org/a/2041>

International Trade Union Confederation <http://www.ituc-csi.org> (includes links to ITUC regional organizations)

Global Unions <http://www.global-unions.org>

Building and Wood Workers International (BWI) <http://www.bwint.org>

Education International (EI) <http://www.ei-ie.org>

International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) <http://www.icem.org>

International Federation of Journalists (IFJ) <http://www.ifj.org>

International Metalworkers' Federation (IMF) <http://www.imfmetal.org>

International Transport Workers' Federation (ITF) <http://www.itf.org.uk>

International Textile, Garment and Leather Workers' Federation (ITGLWF) <http://www.itglwf.org>

International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) <http://www.iuf.org>

Public Service International (PSI) <http://www.world-psi.org>

Union Network International (UNI) <http://www.union-network.org>

International Arts and Entertainment Alliance (IAEA) <http://www.fia-actors.com> <http://www.fim-musicians.com>

Trade Union Advisory Committee to the OECD (TUAC) <http://www.tuac.org>

### Other web sites

Intergovernmental organizations:

The Global Commission on International Migration was launched by the United Nations Secretary-General and a number of governments in 2003. It was independent and given the mandate to provide the framework for the formulation of a coherent, comprehensive and global response to the issue of international migration. The Global Commission on International Migration closed in December 2005, but this web site contains its final report and much useful information: <http://www.gcim.org/en/>

The International Organization for Migration and the World Bank have web pages dedicated to migration: <http://www.iom.int/jahia/jsp/index.jsp> and

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTMIGDEV/0,,menuPK:2838383~pagePK:149018~piPK:149093~theSitePK:2838223,00.html>

The European Union Statistics Bureau (Eurostat) and the Netherlands Interdisciplinary Demographic Institute (NIDI) ran a project to improve understanding of the direct and indirect causes and mechanisms of international migration to the European Union. The results are available at: <http://www.nidi.knaw.nl/web/html/pushpull/index.html>

### Non-governmental organizations (NGOs):

Anti-Slavery International. Founded 1839, it is the oldest human rights organization in the world and deals especially with trafficking of persons: <http://www.antislavery.org>

Human Rights Watch has produced some well-researched reports on the plight of migrant workers in some countries: <http://www.hrw.org>

Joint Council for the Welfare of Immigrants (JCWI) is a UK based advocacy organization: <http://www.jcwi.org.uk>

The UK's University of Sussex Centre for Migration Research and its Development Research Centre on Migration, Globalisation and Poverty contains many useful resources: <http://www.migrationdrc.org/index.html>

Migration Information Source is a New York-based project providing many tools. It produces a regular newsletter to which you can subscribe for free: <http://www.migrationinformation.org/index.cfm>

Platform for International Cooperation on Undocumented Migrants (PICUM). PICUM is a network of individuals and organizations, with a secretariat in Brussels, which aims to promote respect for the human rights of "undocumented" migrants: <http://www.picum.org>

International Migrants Day is 18 December. View the organization campaigns for migrant workers' rights: <http://www.december18.net/web/general/start.php>

**Books and articles**

- Castles, S. and Miller, M. 1998. *The age of migration*, 2<sup>nd</sup> edition, Basingstoke, Macmillan.
- Cohen, R. 1987. *The New Helots: Migrants in the International Division of Labour* Aldershot, Gower.
- Taran, P.A. and Demaret, L. 2006. *Dispelling the migrant myth*, ILO's world of work, No. 57, sept. 2006.
- Spencer, S (ed.). 2003. *The politics of migration: Managing opportunity, conflict and change*. London, Political Quarterly/Blackwell.
- Demaret, L. 2006. *Private employment agencies: The challenges ahead from the workers' perspective*, in Merchants of labour, ILO Geneva, 2006.
- Taran, P.A. and Geronimi, E. 2003. *Globalization, labour and migration: Protection is paramount*, ILO, Geneva.
- Taran, P.A. 2004. *Vulnerable Groups: Migrant Workers*, United Nations Commission on Human Rights, 60<sup>th</sup> Session, 2004, Item 14(a) of the agenda.
- TUC. 2003. *Overworked, Underpaid and Over Here: Migrant Workers in Britain*, London, TUC.
- . 2005. *Making a rights-based migration system work*, TUC response to the Home Office consultation document "Selective admission: Making migration work for Britain".
- Wallace, C. 1999. "Crossing borders: Mobility of goods, capital and people in the Central European Region", in A. Brah, et al. (eds): *Global Futures: Migration, environment and globalization*, Basingstoke, Macmillan, pp. 185–209.
- Harris, N. 2002. *Thinking the unthinkable: The immigration myth exposed*, London and New York, I.B. Tauris and Co. Ltd.
- Pécoud, A. and de Guchteneire, P. (eds). 2007. *Migration without borders Essays on the Free Movement of People*, Berghahn Books in Association with UNESCO, Oxford.
- Working for a Better Life: A Profile of Immigrants in the New York State Economy (121 pages, pdf), [http://www.fiscalpolicy.org/publications2007/FPI\\_ImmReport\\_WorkingforaBetterLife.pdf](http://www.fiscalpolicy.org/publications2007/FPI_ImmReport_WorkingforaBetterLife.pdf)

If one looks at the information contained in the present manual and evidenced by studies prepared by the International Labour Organization and global unions, one would rapidly come to the conclusion that: migrant workers face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers' rights, discrimination and xenophobia, as well as social exclusion. Too often migrant workers are used (and abused) as a source of cheap labour.

Besides the problems faced by migrant workers, their sacrifices and contributions to the economies of their host and origin countries too often remain unaccounted for. Yet migrant workers generate tremendous benefits to both.

Clearly, migration is first and foremost a labour issue: it is about the movement of workers, crossing borders to find employment; it is about equal treatment for these workers, about their conditions, and their rights.

This manual is about strengthening the trade union movement's capacity to participate in the shaping of migration policies, promoting sound labour migration practices, reaching out to migrant workers; about making sure that the benefits of migration, when it occurs, are maximized for all: for the countries of origin of migrant workers, for the countries of destination, and for both migrant and non-migrant workers.

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