

Labour migration, decent work and development: The ILO Rights-Based Approach

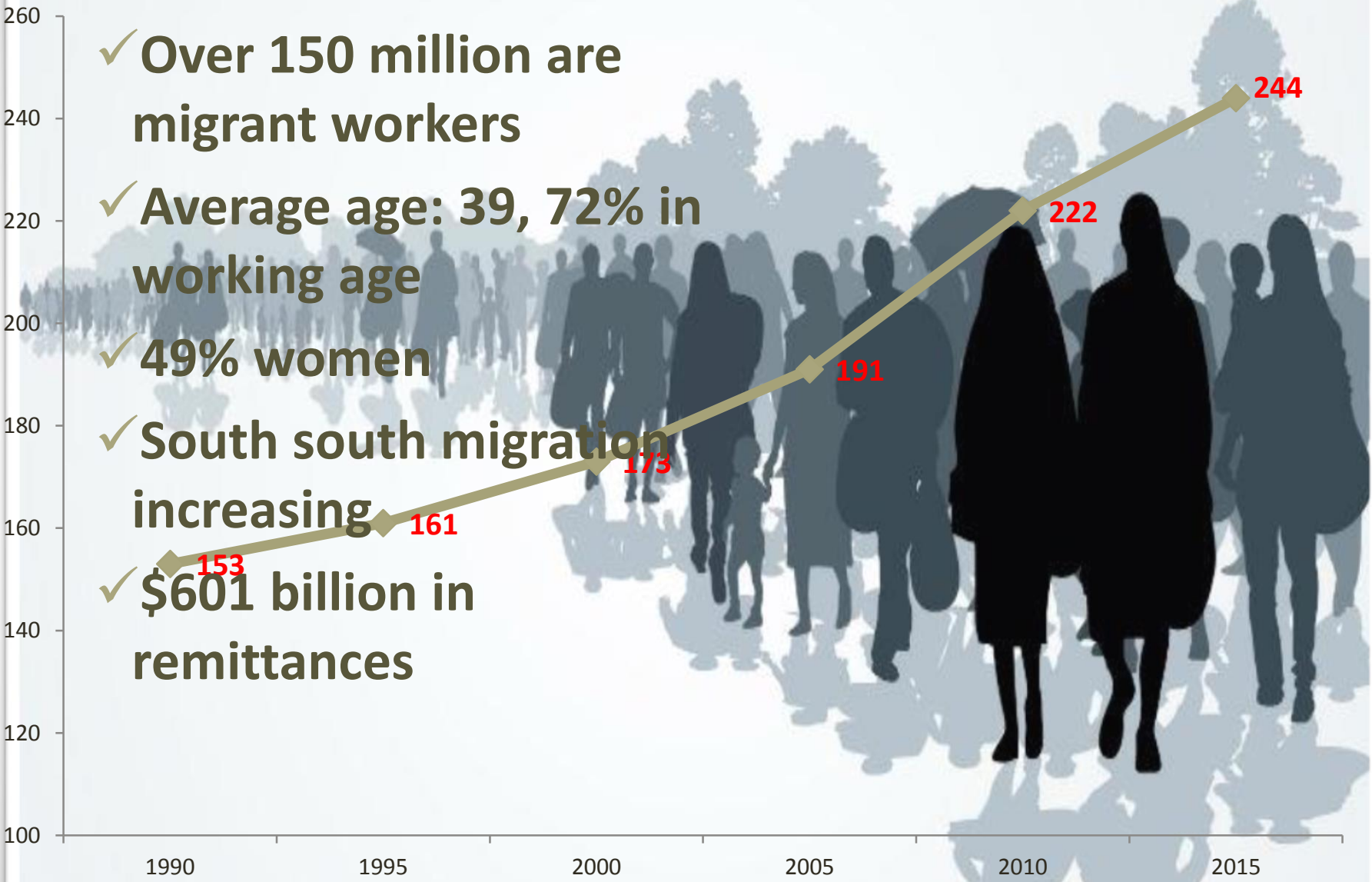
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2015: The highest ever number of migrants



✓ Over 150 million are migrant workers

✓ Average age: 39, 72% in working age

✓ 49% women

✓ South south migration increasing

✓ \$601 billion in remittances

Migrant workers

- ✓ Non-citizens who rarely benefit from full equal treatment
- ✓ Often in low-skilled precarious employment
- ✓ Agriculture, construction, domestic work
- ✓ Abusive recruitment practices
- ✓ Multiple discrimination, especially women migrant workers
- ✓ More at risk of exploitation if in an irregular situation





The biggest refugees and displacement crisis of our time

65.3

MILLION
FORCIBLY
DISPLACED
WORLDWIDE

If these 65.3 million persons were a nation, they would make up the 21st largest in the world.

21.3 million persons were refugees

16.1 million under UNHCR's mandate

5.2 million Palestinian refugees registered by UNRWA

40.8 million internally displaced persons¹

3.2 million asylum-seekers



Refugees:

- ✓ 41% live in the host country for more than 5 years
- ✓ 51% below 18 yrs
- ✓ 54% come from 3 countries (Syria, Afghanistan and Somalia)
- ✓ 86% hosted by developing countries
- ✓ Exposed to trafficking and worst forms of child labour (sexual exploitation, prostitution/pornography hazardous work, forced labor)
- ✓ Access to formal employment often prohibited or restricted by law

ILO Work on Migration

1919 - ILO Foundation with a mandate to protect of workers' rights, including when employed in countries other than their own

1944 - The ILO Declaration of Philadelphia

- **labour is not a commodity;**
- **freedom of expression and of association are essential to sustained progress;**
- **poverty anywhere constitutes a danger to prosperity everywhere;**
- **representatives of workers and employers, enjoying equal status with those of governments,**
- **lasting peace can be established only if it is based on social justice**

Conventions and Recommendations

1998- Fundamental principles and rights at work

2008 – Social dimension of globalization / Decent Work



The ILO normative role: International Labour Standards on Migration

➤ Instruments on labour migration and protection of migrant workers

C97 Migration for Employment Convention (Revised),
1949

C143 Migrant Workers (Supplementary Provisions)
Convention, 1975

R86 Migration for Employment Recommendation
(Revised), 1949

R151 Migrant Workers Recommendation, 1975

Convention No. 97 on Migration for Employment

- Regulation of conditions in which labour migration takes place, including general protection provisions
- Non-discrimination and equality of treatment between migrants and nationals
 - ✓ Wages / working conditions
 - ✓ Trade union rights
 - ✓ Accommodation
 - ✓ Social security
 - ✓ Employment taxes
 - ✓ Access to courts



C143 – Migrant Workers (Supplementary provisions)

- Part I: Migration in abusive conditions – Minimum standards
 - Basic human rights of all migrant workers
 - Protects regular status of migrant worker on loss of employment
 - Migrants in an irregular situation
 - ✓ Equal treatment in respect of rights Access to legal proceedings
 - ✓ Not to bear costs in case of expulsion
 - ✓ Possibility of regularization of opportunity and treatment

- Part II: National policy on equality
 - Employment and occupation
 - Social security
 - Trade union rights
 - Individual and collective freedoms

C97 and C143

Key features

- **Migrant workers, including those in an irregular situation, should enjoy basic human and labour rights**
- **Once admitted to employment, regular migrant workers should enjoy equal treatment with nationals**
- **Social consequences of labour migration also need addressing**
 - **E.g. facilitation of family reunification (C143 and R151)**
- **Labour migration process needs to be regulated within a rights-based rule of law framework**

Other Applicable International Labour Standards

➤ Instruments of general application

C95 Protection of Wages Convention, 1949

C131 Minimum Wage Fixing, 1970

C183 Maternity Protection Convention, 2000

➤ Instruments with express provisions on migrant workers

C181 Private Employment Agencies Convention, 1997

C19 Equality of Treatment (Accident Compensation) Convention, 1925

C102 Social Security (Minimum Standards) Convention, 1952

C118 Equality of Treatment (Social Security) Convention, 1962

C121 Employment Injury Benefits Convention, 1964

C157 Maintenance of Social Security Rights Convention, 1982

R200 HIV and AIDS Recommendation, 2010

C189 Domestic Workers Convention, 2011 (and R201)

P29 Protocol to the Forced Labour Convention, 2014 (and R203)

R204 Transition from the Informal to the Formal Economy Recommendation, 2015

2030 Agenda for Sustainable Development

Decent work and migration

- Decent work cuts across the whole 2030 Agenda
- Recognition of positive contribution of migrants for inclusive growth and sustainable development
- Commitment to leave no one behind
- SDG 8 Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
 - Target 8.8 – protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment
 - 8.8.1 - Frequency rates of fatal and non-fatal occupational injuries, by sex and migrant status
 - 8.8.2 - Increase in national compliance of labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status

2030 Agenda for Sustainable Development

Decent work and migration (cont'd)

- SDG 10 Reduce inequality within and among countries
 - Target 10.7 - Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies
 - 10.7.1 - Recruitment cost borne by employee as a proportion of yearly income earned in country of destination (ILO and WB developing methodology)
 - 10.7.2 - Number of countries that have implemented well-managed migration policies (IOM and UN-DESA custodians)
- SDG 17 Strengthening means of implementation
 - Target 17.18 - enhancing capacity-building support to developing countries to increase significantly the availability of high-quality, timely and reliable data disaggregated by several characteristics, including migratory status
- Addis Ababa Action Agenda
 - Reducing migration costs - access to and portability of earned benefits, enhance the recognition of foreign qualifications, education and skills, lower the costs of recruitment for migrants (para. 111)

Recent ILO policy recommendations

- **Guidance on access of refugees and other forcibly displaced persons to the labour market (July 2016)**
- **Guidelines on fair recruitment (September 2016)**



ILC 2017

Conclusions concerning fair and effective labour migration governance

- Protection of migrant workers and labour market integration
- Skills recognition and development
- Fair recruitment
- Social Protection
- Freedom of association
- Data and statistics
- Temporary labour migration
- Irregular labour migration
- Bilateral agreements
- Regional governance frameworks

Global Compact on Migration (Oct 2017): Proposed actionable commitments on **addressing irregular migration**

- Cooperation between origin and destination countries on providing alternatives to irregular migration,
- Pathways out of irregularity, including through adoption of principles and guidelines for national regularization programmes
- Open new channels for regular migration, particularly for low-skilled workers, such as through closer alignment of labour migration policies to labour market needs, youth and women apprenticeships, vocational training, entrepreneurship, study abroad, and family reunification.

Global Compact on Migration: Proposed actionable commitments on

Improve skills matching with labour market

- Labour market information systems in cooperation with trade unions and employers' organisations to identify labour market needs for migrants at all skill levels
- Regional and global platforms for sharing data on labour market needs
- Bilateral and multilateral frameworks for migrants' skills assessments and recognition

Global Compact on Migration: Proposed actionable commitments on

Promoting fair recruitment and employment

- Labour inspection services
- Social security eligibility requirements
- Switch status lawfully between study, work and self-employment and prevent dependency on a single employer
- Tailor labour market institutions to the needs of migrant workers
- Transition from the informal to the formal economy

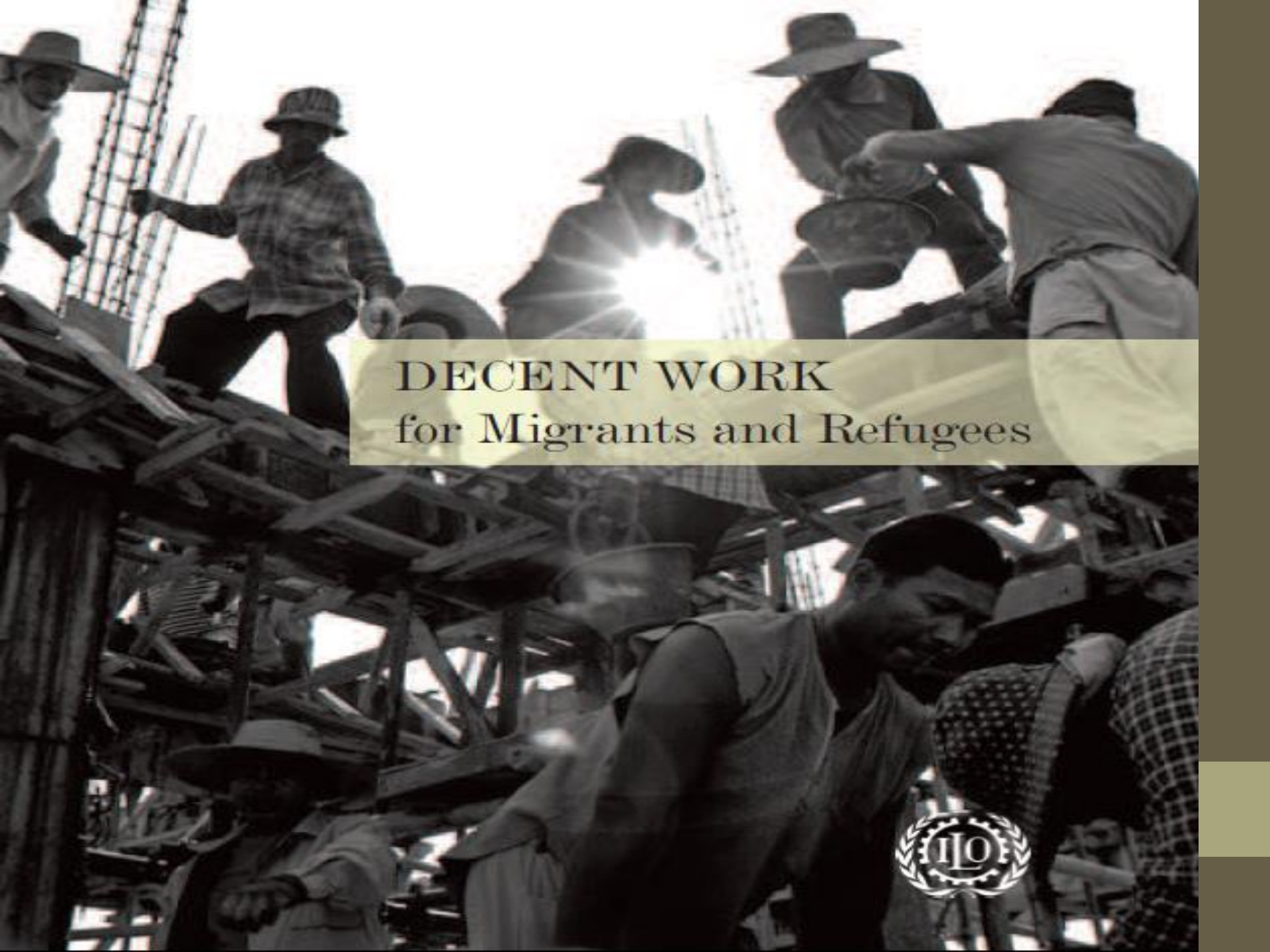
Global Compact on Migration: Proposed actionable commitments on

Promoting fair recruitment and employment

- Abolishing worker-paid recruitment fees
- Employer due diligence within the recruitment process as well as when working with sub-contractors and suppliers within their supply chain.
- Work together with business, trade unions, civil society and media to work to reduce and prevent xenophobia and discrimination,

Some take away points:

- Promoting decent work for migrant workers is not only an economic necessity, but also the right thing to do
- Addressing labour migration is not automatic, but requires major multisectoral changes in normative frameworks, institutions and policies that should be done in an integrated and coherent manner guided by international law
- Involvement of social partners and other stakeholders in the process is fundamental to enhance legitimacy and change perceptions
- Need to invest in better data and statistics
- Not easy, but the worst thing we can do is nothing.

A black and white photograph of construction workers on a building site. The workers are silhouetted against a bright sun, creating a lens flare effect. They are working on a structure with rebar and wooden formwork. The scene is busy and captures the essence of manual labor.

DECENT WORK
for Migrants and Refugees

