

## ► GENDER

Women in migration (whether they are categorised as 'refugees' or 'migrants') face multiple and intersecting strands of discrimination, which affect them during the process of migration, as well as on their arrival in host countries during their 'integration journeys'. Migrating women face seemingly insurmountable barriers related to their status, living conditions, their roles and responsibilities as women, too often leading to violence, abuse and the violation of their bodily and moral rights.

In developing, adopting and implementing measures and policies aimed at migrating women, it is crucial for policymakers to understand that irrespective of whether a woman is a migrant (of any kind) or a citizen of a state or country, her role and contributions to the family through unpaid labour is transferred to the paid economy. Accordingly, in both the formal and informal economies, women are disproportionately confined to low-wage and highly exploited care-giving jobs. There are additional structural barriers to women in the areas of entry into the labour force, direct and indirect discrimination (including suffering in host countries from discrimination, including in education in home countries and occupational segregation).

Cuts in public services (exacerbated in some countries by ongoing austerity programmes) put additional strain on women's unpaid labour, and create a global supply chain in which migrating women are increasingly filling the gap in host countries. Social protection limits often hurt women hardest.

Although migrant women have many of the same problems as other women, there are some problems that are often more severe. These include, violence throughout the process from the home countries, to transit to arrival in new lands. They are often victims of attacks from

various predators who may include government officials, recruitment agencies, employers and other workers.

At the extreme, deception, cruelty and exploitation can take the form of human trafficking, but there are often severe risks short of that. The insecurity to which many migrant women are subjected aggravates fear and dis-orientation that often makes it difficult to assert or fight for respect of rights.

Women face a wide range of additional structural barriers to entering the labour force, discrimination, and occupational segregation (for example, domestic work). They also experience, in addition to the trauma common for all refugees, the separation from their families, which is often more acute for women than for men.

There has been recent progress at the international level in areas that mostly affect migrant women. The International Labour Conference in 2011 adopted the ILO Domestic Workers Convention 189 and Recommendation 201. Both instruments are designed to ensure that the protections of national labour laws are extended to domestic workers. Domestic workers are overwhelmingly women. There were sufficient ratifications for the Convention to enter into force already in 2013 following a major ratification campaign by trade unions and others.

In 2014, the International Labour Conference adopted a protocol to Convention 29 on forced labour (1930) that expands the coverage of the convention to "trafficking in persons for the purposes of forced or compulsory labour". Although this also applies to men, women have been the principal victims of human trafficking. This Protocol also entered into force only two years after its adoption.

## ► SECTORS

Migrant workers are employed in specific sectors and occupations. Policies should be sensitive to sectoral differences. Many migrant workers work in manufacturing, but companies also reduce costs through de-localisation (particularly of labour intensive manufacturing like garments) and/or subcontracting of production. Considerable migrant labour is employed in service industries (private and public) which, by their nature (with some exceptions like call centres and some ICT) cannot easily be shifted to other countries. Affected industries include agriculture and forestry, hotels and restaurants, construction, maritime and road transport, property services, commerce, domestic services and home care, health care and education.

These differences mean that many problems of migrant workers require sector-specific solutions. For example, construction workers, largely from Asia, working in the Gulf, have problems related to work, including denial of trade union and other worker' rights, but they also may suffer human rights violations related to lodging, status, employment contracts

(the "kafala" system), poor functioning of the legal system as well as health and safety and hygiene concerns on as well as off the job. They rarely have the opportunity to have adequate skills training.

In some countries, migrant workers receive sub-standard wages. Or they may not be able to obtain legal status and are in the informal economy and not, therefore, in a position to defend their rights. Exploitation of such workers does not only violate human rights of migrants, but also often undermines the rights and conditions of workers from host countries, including the terms and conditions of work contained in collective agreements. This form of "social dumping" is particularly found in construction.

In the public sector, there are specific occupational problems related to the ability to work in host countries because of accreditation requirements. Credentials earned in home countries are often not accepted in host countries. This affects, for example, teachers, doctors and nurses.

## ► EDUCATION

Great numbers of refugees and migrants live in relatively poor countries. Children may not receive any education or be subject to abysmal learning conditions, including, over-crowded classrooms and few or no education materials or be taught by unqualified teachers.

Even in developed countries, as with other public services, many governments have failed. Spending and revenue limits have created severe constraints in some education systems to provide quality education to migrant children, youth and adults. Education and vital skills are among the prerequisites for successful migration. These include language training, dealing with trauma that may exist, particularly from those fleeing conflict, and learning about the culture and practices of the host country.

Refugee and migrant teachers' qualifications are often not recognised, thus denying them the right to work, while at the same time denying migrant children from the same source country the right to be taught by a qualified teacher who understands their culture and speaks their language. Local teachers need special training to deal with the learning needs of refugees. It is not always easy, for certification and other reasons, to put migrant teachers who may have needed language and other skills to work. Education needs include adult education.

The right to education, like trade union rights, is an enabling right. It opens up possibilities to exercise other rights, to adapt to host country conditions and to work and interact with other workers in all sectors. Education is not a sectoral concern, but a general and fundamental challenge for the integration of migrants and refugees and for building tolerant, decent societies.



# United Nations Summit on Refugees and Migrants

New York, 19 September 2016

## RECOMMENDATIONS FROM GLOBAL UNIONS

1. Governments should ratify and implement, as a matter of urgency, the ILO Conventions on migration. The ILO Committee of Experts has affirmed in 2016 the vital and relevant role of the Conventions in the good governance of migration. Valuable information on the challenges of ratification is available in the ILO General Survey prepared for the 2016 International Labour Conference.<sup>1</sup>
2. The UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families should also be ratified and implemented. Migrants should fully benefit from the UN Bill of Rights and all ILO Conventions.
3. The United Nations Convention on the Status of Refugees, widely ratified, should be fully respected. Rights should be enhanced for those forcibly displaced, but who currently do not qualify for protection by that Convention.
4. The "crisis" of migration and refugees often takes the form of attacks in host countries. Measures should be taken to protect migrants and refugees from xenophobia, bigotry, and discrimination.
5. Global efforts are necessary to combat the conditions that create forced migration and produce refugees. There are a wide range of issues involved, including military conflict, violations of human rights, extreme deprivation, and catastrophes. These problems are not only national and regional, but are linked to global factors and actions. They require global responses.
6. The overwhelming proportion of refugees are found in developing countries. An urgent global mobilisation is necessary if their rights are to be respected and if they are to live in decent conditions.
7. Global governance cannot be properly dealt with outside of the UN framework. We have seen the inadequacy for many years of the semi-official Global Forum on Migration and Development (GFMD). It cannot replace real and responsible government action on migration.
8. The UN and governments should promote quality public services for all. Migrants, asylum seekers and refugees should be able to access public services without fear, without discrimination and without restrictions. Such services include emergency response, health care, education, housing, social services, access to justice, job placement and integration services. That requires adequate funding of public services with well-trained staff with good conditions.
9. Protection of the right to education and the provision of good quality education, is critical to the success of migrant workers, refugees and their families. This must be a top priority everywhere, particularly in those developing countries where the burden of providing education to refugees and migrants is greatest. If urgent action is not taken, there is a risk of losing a whole generation in very few years with permanent national and global consequences.
10. Urgent and effective action is needed to protect migrant women from violence in their home countries, in transit, and in host countries. Women should not be placed in unequal situations in terms of employment status and employment relationships and should be free from the many forms of discrimination to which they are subjected. They should also be guaranteed a civil and employment status that ensures independence from employers and spouses.
11. Serious abuses by recruitment agencies cannot be allowed to continue. In addition to the positive ILO Fair Recruitment Initiative, still in its early

<sup>1</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/questionnaire/wcms\\_250259.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/questionnaire/wcms_250259.pdf)

stages, there needs to be serious international engagement to attack the severe and often brutal violations of human rights by such agencies. Of particular importance is effective cooperation between home and host country governments if such practices are to be eliminated.

12. Dealing with unscrupulous agencies also requires addressing the problem of corruption. Among the alternatives that might be considered is direct recruitment with full transparency without passing through private agencies. There are a wide range of other measures that need to be taken. These include effective government regulation based on international standards, including through use of registration and licensing as well as adequate inspection and enforcement regimes.

13. Too many bi-lateral migration processes are shrouded in secrecy. Social partners should be involved in bilateral labour arrangements (BLAs), including in monitoring them. Such participation contributes to transparency and good governance.

14. Migrants and refugees are often stuck in precarious, dead-end jobs. Possibilities for training and better quality, secure employment should be developed with full protection of workers' human rights. The deterioration of employment relationships and conditions have an important international dimension.

15. The situation for migrants and refugees differs according to sectors, occupations and skills so effective international action needs to be sector sensitive. It is not only that the problems and conditions of migrants often differ by sector, but also that global market conditions affect sector employment opportunities and practices differently.

16. The proposed Global Compact on Responsibility Sharing for Refugees goes in the right direction and the Global Compact for Safe, Orderly, and Regular Migration proposed by the Secretary-General has several positive elements.

17. Among other things, the Global Compacts highlight the problems of those who are not considered to be refugees, but who have no choice but to leave their homelands for various reasons. Global action in these areas, as mentioned in the report, needs to include resolution of conflicts and social and economic development. In many cases, such action would, in effect, establish a right to not migrate.

18. Although they stress the dangers faced by those forced to leave, including violence and xenophobia and emphasise the importance of rapid procedures, protections, and appropriate assistance for refugees and migrants, decent conditions in camps and due process, the need for good jobs with full rights and good conditions is given too little importance. Decent work is necessary for migrants and refugees to exercise and realise their human rights, but also in order for them to make maximum contributions to their new societies in a way that maintains rather than undercuts national standards and host country workers.

19. The series of issues outlined in the Secretary-General's report are far too serious and vital to be contracted out to other parties. They should fully engage all of the members of the UN family, as well as national and regional authorities.

20. Respect for migrants and refugees also means the possibility to help shape and participate in their own destinies and futures. That means not only the right to organise and bargain on the job, but also possibilities to engage in processes beyond the workplace that ensure that their views and interests are taken into account.

# Background

## ► REFUGEE CRISIS

According to the UNHCR, the UN agency for refugees, "An unprecedented 59.5 million people around the world have been forced from home. Among them are nearly 20 million refugees, over half of whom are under the age of 18". About half of the refugees are women. Two-thirds of refugees have been in exile for more than five years. There are also 10 million stateless people who have been denied a nationality and access to basic rights such as education, healthcare, employment and freedom of movement."

This is an unparalleled flow of refugees. It exceeds the numbers of displaced persons following World War II. Refugees are protected by the United Nations Convention on the Status of Refugees adopted in 1951 and its 1967 protocol. The 1951 refugee Convention has been signed by 144 countries. Among other things, provisions include:

- Immediate aid for lodging, sanitation, nourishment and medical services;
- Respect for the status of refugees and their rights to asylum and full protection of other rights (including trade union rights and access to courts);
- Protection against exploitation and assurance of good working conditions and full coverage of labour legislation, collective agreements, and social security;
- Protection of freedom of movement;
- Provision of education and training for refugees of the same quality available to citizens; and
- Assurance of the provision of sufficient, good quality language training as well as taking other measures to facilitate their adaptation and integration.

For political reasons, there has been resistance in some countries to applying the Convention and Protocol. A few nations adopted the instruments with reservations. Others, more recently, have cited political barriers to implementing their treaty obligations.

The expanding number of refugees has affected many regions of the world. Although there has been much discussion about Europe, there are other regions that have been relatively more affected. In fact, about four-fifths of refugees are hosted in the developing world. If one examines the situation in close proximity to Europe, there are relatively far more refugees in the Middle East and North Africa as well as in sub-Saharan Africa.

It has become clear that the European "refugee crisis" is more of a crisis of political leadership than a refugee emergency. The fact that the political crisis is abstract and emotional rather than concrete and practical, however, does not make it less real or less dangerous.

In Europe, in addition to the distinction between those who are forced for whatever reason to abandon their homelands and those who are refugees because of danger to their lives for political reasons or conflicts, there are differences between "migrants", coming from EU member countries and "third-party nationals" coming from outside the EU.

The problems faced by refugees, asylum seekers, and migrants are often similar. The High-Level meeting of the UN General Assembly on 19 September 2016 will address large movements of both refugees and migrants.

## Common Issues for Migrants and Refugees

### ► THE UPROOTED

People categorised as 'refugees' or as 'economic migrants' often share similar conditions for migrating, irrespective of the categories into which they may be put by authorities, policymakers or the media. Indeed, the existing definitions of 'refugee' and 'asylum seeker' do not address the multiple causes of forced migration.

Addressing the UN General Assembly last autumn, the UN High Commissioner for Human Rights stated that: "...movement is rarely 'voluntary' in the true sense of that term. Refugees fleeing persecution and conflict journey together with migrants fleeing poverty, discrimination and despair. They are not two different kinds of people; 'deserving' and 'undeserving'. They are all human-

beings".<sup>2</sup> The commitment in the SDG agenda to 'safe, orderly, legal migration' (SDG10) runs in parallel with the existing obligation for States to guarantee migrants' human rights, irrespective of status.

Migration should be a choice; not the only option. The root causes of departures of both refugees and forced migration should be addressed. This would include taking measures to promote sustainable social and economic development, stability and peace, opening up channels for regular migration, enhance protection of the rights of asylum seekers, and effective action against exploitation and trafficking. Rights and conditions need to be grappled with in both home and host countries.

### ► FEAR

Obstacles to successful accommodation of large numbers of refugees and migrants are not primarily material or even rational. They are, instead, related to fear.

Leaving one's country and becoming established in other countries, often with different languages and cultures, can be traumatic and difficult. Even under the best of circumstances Migrant workers are often in social and economic situations that breed fear; and, in addition, they are often victims of attacks, hatred, discrimination and stereotypes.

In host countries, migration and refugees have been used by populists on the Extreme Right who have deliberately mixed up the newcomers with religious bigotry, terrorism, and criminality. One effect of that politicisation of the arrival of people from other

lands is the staggering lack of courage of many political leaders, who seem paralysed by fear.

Rational arguments are not, unfortunately, very effective in countering fear, particularly fear of the unknown. However, not everybody is hostile to the outside world. There are also normal, decent instincts and reactions in host countries.

The way to conquer fear of the unknown is by taking concrete, active measures to receive and integrate incoming migrants into communities and to break down barriers and build understanding. Only in that way can the unknown become known. Successful strategies for migration need to take into account the needs and concerns of migrants, while, at the same time, encouraging acceptance, tolerance, and positive attitudes in host populations.

### ► HUMAN RIGHTS

The ILO has adopted two major Conventions on migrants, C 97 (1949) and C 143 (1975). In addition, the UN General Assembly adopted the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families in 1990 (Signatories: 38. Parties: 48). Although all conventions were adopted by a large consensus and the concepts remain critical, not only for protecting the rights of migrants, but for governing migration, they have received relatively few recent ratifications, mostly from emigration countries. Convention 97 has been ratified by 49 countries and Convention 143 by 24. Growing migration increases the importance of wide ratification and implementation of these Conventions.

Although Conventions and other instruments have been developed to address specific problems faced by migrants and refugees, people on the move are also covered by the full range of human rights as contained in the UN Bill of Rights (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and all Conventions and Recommendations of the ILO as well as regional human rights instruments. International human rights cover health, education,

food, detention and due process and a wide range of other issues. Among the most important rights for migrant workers as for all workers are the enabling rights to form and join trade unions and engage in collective bargaining. These rights allow migrant workers to leverage respect for other rights. Trade unions are also often among the few pathways for migrant workers to enter the mainstream of society. The protection of human rights is the responsibility of governments, but businesses have the responsibility to respect human rights. This goes beyond obeying national law to respecting international human rights standards to ensure that they do not, directly or indirectly in their business relationships have adverse effects on human rights.

As so many migrant workers work for enterprises, including for large corporations, the UN Guiding Principles on Business and Human Rights (adopted in 2011) and the OECD Guidelines for Multinational Enterprises (revised to incorporate those principles the same year), have become important human rights instruments for migrant workers including on such issues as workers' rights, housing, non-discrimination, recruitment, and, in fact, for the whole range of human rights.

### ► EMPLOYMENT

The global economy has produced rising inequality. There has been greater accumulation and concentration of wealth at the top and an expansion of poverty at the bottom and, in many countries, there has been increasing pressure on those in the middle. Part of this tendency is explained by the explosion of insecure, precarious work, much of it fixed term and temporary.

Migrant workers often fall victim to recruitment agencies. They frequently have to pay high fees and are deceived as to the wages and conditions that they will receive in host countries. Migrants should not have to pay any fees to recruitment agencies. Repayment of fees consumes a lot of migrant workers' compensation, generates corruption and fear among migrants and their families. Host as well as home countries and employers should reject such exploitation. Important work to change the use of and practices of recruitment agencies is taking place in the ILO Fair Recruitment Initiative, which not only deals with regulation issues, but also insists on the accountability of recruitment agencies so that they are required to fully comply with national laws and international standards.

Insecure, poor quality employment means insecure lives; it also heightens fear, making it more difficult to exercise rights even where they exist on paper. This is true for all workers, but is particularly the case for migrants. The lack of clear employment relationships and triangular employment relationships (where the legal employer

is not the same as the one that makes the real decisions affecting workers), often create structural barriers to the exercise of trade union rights; the right to organize as well as the right to collective bargaining.

Equal treatment and rights with national workers is essential to protect the rights of migrant workers. However, it is also central to protecting the rights of non-migrant workers. Migration should never be used by governments or by business as an instrument to undermine the rights and conditions of workers. Among other areas, this abuse has been seen in some cases of "circular migration". Temporary, seasonal, and circular migration programmes often treat migrant workers as if they were commodities, limit workers' rights and drive down wages and working conditions. Migrant workers should have good quality jobs and benefit from all the rights and benefits considered to be decent work as laid out in the 2008 ILO Declaration on Social Justice and a Fair Globalization.

Changes in work organisation in many countries have, in effect, created rigidities in labour markets where migrant workers are often locked into certain categories of work, even if it is temporary and insecure, where there are few opportunities to advance or escape. Just as there were and, in many cases still are, certain classes of employment for women workers, too many migrant workers are discovering glass ceilings as well as collapsing floors. It is as if the ladder of opportunity in many new lands only has one rung.

### ► PUBLIC SERVICES

The arrival of refugees and migrants increases burdens on public services at a time when those services in many countries, are suffering from the effects of austerity programmes. Eighty percent of migrants are in developing countries, who most often have weak public services and limited social protection. Access to those limited services is often restricted when it comes to migrants. And yet, public services are critical for the reception and integration of

migrants. For undocumented workers and stateless people, access to public services is, at times, limited or denied. They may also be subject to harsh law enforcement measures including detention under poor conditions and, in some cases, without due process. Regardless of legal status, measures should be taken to ensure that access to public services is available.