



29 September 2014

Input Paper

Human Rights and Dignity for All

Decent Work for Migrant Workers worldwide

Decent work is central to acknowledge human rights and dignity at the workplace. Recent years have seen a worldwide erosion of decent working conditions: low job security, poor wages, lack of social protection and union representation. Worldwide, among the most vulnerable workers are migrant workers.

In 2013, the number of migrants globally hit an all-time record of 232 million, half of them are migrant workers. Asia makes up 25 percent of migrants worldwide, 30 million Asian workers are currently working abroad and trends predict a further increase. On the one hand, economic globalization and trade liberalization have destroyed numerous jobs and caused increased migration pressure. Job shortage, employment insecurity, poor wages as well as the absence of active labour market policies have accelerated the outflow of workers. Countries like the Philippines and Mexico showcase this correlation. On the other hand, the structure of the economy, labour and skills shortages and demographic changes are key factors that drive the demand for workers in receiving countries like Singapore or Germany.

Brain drain continues to be a threat to developing countries. It is important to acknowledge that economic migration by necessity happens not only to the marginalised and unfortunate, but also to the best and brightest some countries. Due to poor working conditions, unjust labour legislations, comparatively low wages, or a lack of opportunities in their country of origin, experts, highly skilled and educated individuals often seek professional and financial appreciation through migration. This presents a perpetuating challenge by ways of a deprivation of talent and expertise sorely needed by their country of origins.

Migrant workers are confronted by a myriad of challenges. First, is the psycho-social difficulty of living apart from their families, including their spouse and children, while trying to maintain relations with them and struggling to find a support group in their host countries. Second, integrating into host societies are made difficult due to discrimination and marginalization on the basis of race and ethnicity, as well as the challenge of reintegrating into their home countries after spending a difficult life abroad. Third, the very limited protection of individual rights and civil liberties, particularly in countries that are run by conservative and authoritarian governments. Fourth is working in an employment environment that treats migrant workers as second-class citizens, often fraught with false promises from recruiters and employers, and the wide network of trafficking, exploitation and abuse.

Labour migration is a complex issue that asks for differentiation, first and foremost between regular and irregular forms of migration. According to latest estimates, 10-15% of all migration is currently irregular. Undocumented migrants tend to be easy targets of exploitation by employers and recruiters. In the worst case, migrant workers experience violent or sexual abuse and labour exploitation amounting to forced labour. Fearing detention or expulsion, most undocumented migrant workers do not dare to seek justice.

When undocumented migrant workers are tracked down by the police, they often end up in jail or are deported back to their home countries. The situation of Mexican workers in the United States has continuously deteriorated: In 2013, a total of 370.000 immigrants were expelled from the US, two thirds are Mexican. We believe that the promotion of regular migration is an effective tool to prevent high levels of irregular migration and human trafficking.

It is also a reality that documented migrant workers are frequently treated less favourably than national workers. They tend to work in inferior conditions, receive lower wages, have little access to social protection and are ill-informed about their rights or even excluded from

labour legislation. With great concern, we also notice the increase of xenophobia and racisms towards migrants in many countries.

Widely held negative public opinion on migration neglects its positive consequences, mainly the economic benefits of migration. Especially since underdevelopment in labor-sending countries are marked with massive unemployment and under employment, migrant workers contribute immensely to the economic development of their home countries. Remittances have become, for some countries, the main lifeline that keeps their economy afloat. By sending workers abroad, the government also responds to the unemployment situation in their respective countries. Hence it is not surprising that labour migration has become the unofficial, yet crucial, component of the government's strategy of employment and national development. According to the latest estimates, remittances amounted up to more than USD 400 billion globally in 2013, three times the amount of official development assistance.

We take note that labour migration has become "big business". In Asia, private recruitment agencies tend to take advantage of the bad situation of low-skilled workers by imposing high recruitment fees and giving false promises about wages and job profiles in the host countries. This ties migrant workers to a bondage of indebtedness from excessive charges by brokers from their home countries and recruiters from their host countries. For example Malaysian laws have been amended in recent years to encourage the growth of recruitment companies that provide workforce services to multinationals, including paying, accommodating and disciplining employees. Liability over violations of worker rights is obscured, creating vulnerability on the part of the worker to exploitation and abuse. This 'outsourcing' and commercialization of migrant welfare must be curbed by highlighting it on the regional and global stage. The EU Directive (2014/36/EU) on Seasonal Workers is a good example that explicitly includes employment agencies in the scope of the Directive. It is with great concern that we observe the expansion of human trafficking. It is considered to be one of the fastest growing international organized crimes. Human smuggling networks are known to be part of a larger complex of criminal activity including sex trafficking and drug

dealing, especially in Central America and Mexico. Also in Asia, there is compelling evidence of child smuggling from Thailand and Vietnam for the sex industry by force to Malaysia. Urgent action by the authorities is needed to fight any criminal behavior in this regard.

We are convinced that decent work is the key to eradicate poverty, improve the lives of women and men, stabilize the economy, promote sustainable and socially just growth and enable people to live in peace and dignity. The first step to dealing with problems associated with labor migration is the active effort of government to create decent work at the local level. This will certainly change the dynamics of labor migration, from one that is a matter of survival, to one that is a matter of personal choice by each and every worker. To protect low-skilled migrant workers and reduce, if not entirely eliminate, their vulnerability to abuse, the second, and equally important action that the international community must take is to safeguard human rights of workers, their protection, as well as their access to decent work in host countries.

We believe that the protection of migrant workers rights and welfare is the shared responsibility of home country governments and host countries. Hence, we call on governments in sending and receiving countries to guarantee and protect workers' human and trade union rights. They have to ensure workers' rights to form and join trade unions as well as to bargain collectively with their employers, including the right to strike. Above that, occupational safety and health as well as living wages are central aspects of a decent working environment and must be guaranteed. To exclude migrant workers from any labour legislation or to prohibit the forming or joining of trade unions is discriminatory and therefore unacceptable. We believe that policies allowing undocumented workers to become documented without fear of prosecution are the best way to promote their protection. We believe employers engaging into practices of modern slavery and hiring undocumented workers should be held accountable and be prosecuted. It is first and foremost their responsibility to promote protection of workers.

It is essential that workers are aware of their rights and of their employment and living conditions prior to departure and upon arrival at the destination country. Aside from the states, civil society organizations can play a crucial role in providing this information. Moreover, states should provide assistance through their diplomatic missions or consular posts in destination countries. They must serve as central actors to offer consultancy, support as well as access to services and ensure the legal protection of migrant workers.

Fair labour migration implies a coordinated and integrated approach by countries. As progressives we support comprehensive labour migration agreements as the basis of labour migration governance, in line with the principle of equal treatment and equal pay for equal work at the same place. Depending on the context, these agreements can be bilateral or multilateral in nature. In Europe, legal migration should be handled at the EU level. Furthermore, actions of private recruitment agencies need to be strongly regulated and monitored to avoid malpractices.

We call on governments to expand and extend social security provisions for migrant workers and include them in labour migration agreements. In accordance with the UN Declaration of Human Rights, every member of society has the right to social security. The ILO Social Protection Floors Recommendation (No. 202), adopted in 2012 is an outstanding opportunity for the expansion of social security and the inclusion of all resident workers. Social protection floors should ensure basic social security guarantees such as health care, maternity care and basic income security.

In addition, we urge governments to enable access to as well as the preservation and/or portability of pension entitlements. We are convinced that the conclusion of bi- and multilateral social security agreements are the best legal basis to coordinate entitlements in two or more countries while at the same time ensuring the equality of treatment, transparency and accountability. EU Regulation No 883/2004 on the coordination of social security systems in Europe serves as an example that responds to social protection in the “Age of Mobility” and should be fully implemented.

We cannot look at labor migration without acknowledging the gender dimension that marks this phenomenon. Labour migration is becoming increasingly feminized, 48% of all international migrants are women. As progressives, we stand for gender equality and against any form of discrimination of persons on the basis of their sex, sexual orientation, gender identity or gender expression. Among female migrant workers, household-service workers constitute one of the largest and most-vulnerable group. Labour inspections are crucial to ensure their protection and to stop cases of modern-day slavery. We acknowledge that 14 countries worldwide have ratified ILO Convention 189 on Decent Work for Domestic Workers, among them the Philippines as the only Asian country. We call on all states to urgently ratify ILO Convention 189 on Decent Work for Domestic Workers, harmonize national legislation accordingly and monitor the implementation including shadow reporting by civil society. Regional efforts within ASEAN to push for ratification amongst member nations must be a priority heading towards the ASEAN regional economic integration by 2015.

We believe that a rights-based approach to labour migration is the key to the promotion of decent work for migrant workers. Governments need to ratify and implement the eight core ILO labour conventions as well as monitor and enforce them. Moreover, we push for the ratification and implementation of international binding standards that are immediately relevant to migrant workers: Convention 97 on Migration for Employment (Revised), Convention 143 on Migrant Workers (Supplementary Provisions) and Convention 181 on Private Employment Agencies, the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Protocols against Human Trafficking as well as regional agreements like the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. These norms provide the legal basis against discrimination of migrant workers and need to be duly observed. Nevertheless, a review of these norms might be necessary in order to ensure that they respond to the latest trends

and patterns of migration. Hence, we appreciate the recent efforts of the ILO to play a more active role in the global discourse on migration.

Migration has become key to the viability of labour markets around the world. To ensure that labour migration is always a choice and never a necessity for an individual, we call on governments to put maximum efforts in creating decent jobs with decent pay for full and productive employment as well as equitable and sustained economic development. We believe that the creation of decent jobs and social protection floors needs to be among the Sustainable Development Goals of the Post 2015 Agenda.

As progressives we stand for freedom, solidarity and social justice. Our ultimate aim remains to lift people out of the poverty trap, ensure decent work and living wages for all workers in order to build socially fair and just societies.