

**West Asia Regional Consultation on the
2nd UN High Level Dialogue on Migration & Development**
Landmark Amman Hotel & Conference Centre
Amman, Jordan, 2-3 July 2013

On July 2 - 3, 2013, forty-three representatives of civil society, trade unions, and academia from the West Asia region gathered in Amman, Jordan for the last of seven regional consultative processes taking place globally in preparation for the upcoming civil society hearings of the UN High Level Dialogue on Migration & Development (UNHLD). This gathering follows the ESCWA preparatory consultation for the UNHLD, held in Egypt June 2 - 3, 2013. Recognizing and affirming ESCWA recommendations that civil society participation be enhanced in the UNHLD process, the aim of the gathering was for civil society active on migrants' rights and migrant protection in the region to provide inputs into the seven-point, five-year civil society action agenda developed by the Global Coalition on Migration and the international civil society steering committee for the UNHLD, and endorsed by 100+ civil society organizations worldwide.

Over the course of two days, the delegates engaged in in-depth discussions on each of the seven points: regulating the recruitment industry; stranded migrants; labour rights for migrant workers; migration and the post-2015 development agenda; rights for migrant women and the best interests of children; promising practices for the protection of migrants' rights; and international migration governance. This document summarizes these rich discussions and elaborates the policy recommendations the group has agreed to put forward.

On regulating the recruitment process

The recruitment process poses particular challenges for effective regulation, and gaps in current regulatory practices, both in countries of origin and destination, result in increased risk for migrant workers. The effectiveness of government regulatory regimes is often hindered by a general lack of enforcement and monitoring. Online recruitment through unregulated websites is becoming increasingly common, often providing prospective migrants with inaccurate information upon which to base their migration decisions. In addition to formal recruitment agencies, which fall under existing government regulations, there are other players that recruit workers directly: brokers/sub-agents and, in the case of West Asia, individual employers (Kafeels). These additional actors are effectively unregulated.

Policy Recommendations:

- (1) Governments must review existing labour laws and regulations, amend them to ensure compliance with international standards and practices, and impose effective punitive measures.
- (2) Countries of origin and destination should explore alternatives, such as government-to-government agreements, to alleviate exploitation in existing recruitment processes.
- (3) Countries of origin and destination should urgently and collectively introduce and enforce the utilization of standardized contracts for migrant workers that conform to international UN and ILO standards.
- (4) All governments should ratify and implement ILO Convention 181, the Private Employment Agencies Convention.

On stranded migrants

The delegates adopted a broader definition of stranded migrants to include those who are unable or unwilling to return to their countries of origin, who cannot regularize their status, and/or who do not have the legal means to move on to a third state. This would not be limited to those who are physically stranded due to conflict, emergency, or other disaster scenarios, and would encompass the acute vulnerabilities of many migrant workers who find themselves stranded in their countries of destination for other reasons, with few (sometimes no) options to remedy their situations.

Policy Recommendations:

- (1) Governments should implement visas based on employment category and should ensure labour mobility for all migrant workers and ensure reasonable grace periods between employment contracts.
- (2) Governments should implement streamlined exit procedures for departing migrant workers, taking responsibility to ensure that migrant workers have unhindered access to essential documents to facilitate their return.
- (3) Governments should develop clear, comprehensive, rights-based, and migrant-centred strategies to evacuate migrant workers in need during emergency situations, such as conflict, disasters, and crises.

On labour rights

Many migrant workers in the West Asia region, particularly migrant domestic workers and irregular migrants, fall outside the protection of national labour laws. Where labour laws do cover migrant workers, enforcement, knowledge of applicable laws, and access to redress mechanisms often hinder the ability of migrant workers to enjoy the protections such laws afford. The dependence of migrant workers on their sponsors/employers can result in exploitation and violations of workers' rights.

Policy Recommendations:

- (1) Governments of countries of origin and destination are responsible for ensuring that their national laws and policies include those minimum standards enshrined in the core UN and ILO conventions that protect the rights of migrant workers. Where discrepancies exist, governments must work towards harmonizing laws, policies, and practices with labour and human rights standards.
- (2) Governments must ensure the rights of migrant workers to free association, and must protect the rights of workers to organize and engage in collective bargaining. Governments must ratify and implement ILO 87: Freedom of Association and the Protection of the Right to Organize and ILO C 98: Right to Organize and Collective Bargaining.
- (3) Governments of destination countries should establish wage protection systems such that migrant workers can seek assistance in retrieving lost wages and benefits. Such a system could be established through bonds paid by those employers who hire migrant workers.
- (4) Countries of origin and destination should collaborate on the creation of portable social protection mechanisms for migrant workers, including healthcare and pensions.
- (5) Governments should ensure that the freedom of movement of migrant workers is protected, by guaranteeing the right to leave their place of employment during rest periods and reside in accommodation not provided by their employer.

On the Post-2015 Development Agenda and the contributions of diasporas to development

Labour migration is often conceived of as a catalyst for economic development, with discussions narrowed to the ways in which migrants contribute to the development of host and origin countries. This view fails to consider non-economic aspects of development or to prioritize the rights of workers to choose to migrate, rather than to do so on the basis of an economic imperative created by an acute shortage of decent work opportunities at home. As a development strategy, reliance on migrant workers' remittances is unsustainable. Because the stability and security of countries of origin have an impact on countries of destination and the global economy, all states have an interest in facilitating sustainable development.

Policy Recommendations:

- (1) The global discourse and associated policies on migration and development must reflect the importance of a living wage to facilitate sustainable development, global stability, and security.
- (2) Governments and international bodies must scrutinize lopsided trade agreements that undermine the human and labour rights of the citizens of countries of the Global South, and consider the links between exploitative terms of trade and labour migration. Origin and destination countries must develop labour policies that protect and prioritize the human and labour rights of workers above the interests of influential trading partners or multinational corporations.
- (3) Governments of sending countries must support migrant returnees in managing their remittances and savings, and provide training and support for those who wish to start investment projects.

On rights for women migrants & the best interests of children in migration

Women migrant workers and children in migration are in positions of increased vulnerability compared to migrant men. Domestic workers, most of whom are women, are made particularly vulnerable due to their gender, their dependence on their employers for legal and residency status, and their relative isolation given the home-based nature of the work. Children in migration often inherit the legal status of their parents and the resultant vulnerabilities. In light of the risks to which migrant women and children are subjected, and to protect their basic human and labour rights in the country of destination, gender-responsive policies addressing the specific needs of women and children are urgently required.

Policy Recommendations:

- (1) Mistreatment, abuse, gender-based violence, trafficking, and exploitation of women or children should be vigorously and publicly condemned, and victims sufficiently protected and assisted by the destination country government. Victims of trafficking should not be held accountable or penalized for their undocumented status.
- (2) Governments must abolish the use of administrative detention, as many migrant workers in the West Asia region, particularly migrant women, become undocumented due to the actions or inactions of their sponsors. In particular, children, whether unaccompanied or with their families, should never be detained. Provisions should be made to regularize undocumented workers in lieu of detaining or deporting them. Governments must not accept the practice of forced deportations, particularly in the case of refugees or asylum seekers.
- (3) Children whose parents are undocumented inherit this status. Governments should enact special provisions to regularize children in this situation as quickly as possible and ensure that these children have access to education.

On promising practices for the protection of migrants' rights

In the West Asia region, some promising policy changes have the potential to enhance the protection of migrants' rights. These include:

- The UAE's Wage Protection System, which covers migrant workers and which was developed by the Central Bank of the UAE. The system records wage payments of workers in the private sector to guarantee the timely payment of agreed wages.
- The bilateral agreement between India and Oman, which provides careful oversight of contracts for domestic workers, including the requirement that employers deposit a bond, equivalent to 12 months salary, in a bank account to prevent issues of late payment or non-payment of wages.

Policy Recommendations:

- (1) All migrant sending and receiving countries should pursue effective bilateral agreements that protect the human and labour rights of migrant workers. Where bilateral agreements exist, governments must enhance enforcement and monitoring mechanisms.
- (2) Governments should refer to the ILO Multilateral Framework on Labour Migration for guidance in bringing laws and policies in line with international law.
- (3) Host country governments must take concrete steps to end wage discrimination on the basis of nationality.
- (4) Migrant workers must have full access to legal redress mechanisms and arbitration in the case of employer-employee disputes.
- (5) Host country governments must allow free transfers between employers and institute grace periods for those migrant workers whose contracts are prematurely terminated.

On international governance of the mechanisms governing labour migration

Migrants' rights organizations and migrant communities advocating for enhanced protections for migrant workers and their families have long held that spaces for civil society must be expanded in international, regional, and national government deliberations. Civil society organizations can contribute considerable expertise and have the capacity to transmit knowledge and data from the grassroots to the policy realm. By engaging fully with civil society, governments stand to gain important insights into the root causes of labour migration and the means by which rights-based approaches can be pursued and successfully implemented.

Policy recommendations:

- (1) Governments should enhance networking with civil society, as important information on the state of migrant communities can be shared with embassies and foreign missions through grassroots networks.
- (2) Governments must urgently ratify and implement all human rights conventions, particularly the International Convention on the Protection of All Migrant Workers & Members of their Families and the International Covenant on Economic, Social, and Cultural Rights, which pertains equally to migrant workers. All international human rights conventions must be harmonized in national law and policy.
- (3) Governments in West Asia should participate in and carefully consider the outcomes of the upcoming UNHLD on Migration and Development, and turn to civil society as an important stakeholder that can provide expert inputs on migration during these discussions.

(4) Governments in West Asia should provide greater spaces for full and meaningful civil society participation in regional consultative processes (i.e., the Abu Dhabi Dialogue), meetings of UNESCWA, and processes of the Arab League pertaining to migrant workers. Governments should include the newly-formed Arab Network on Migrants' Rights as an official civil society representative in these forums.