

Recommendations from Asia on the 5-year, 8-point Civil Society Agenda

Outcome Documents from the Asia-Pacific
and West Asia Regional Consultations

MIGRANT FORUM



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RECOMMENDATIONS FROM THE ASIA-PACIFIC REGIONAL CONSULTATION

27-28 May 2013
Bangkok, Thailand



Introduction

From 27-28 May 2013, **Migrant Forum in Asia** and **Building Woodworkers International** hosted the **Asia-Pacific Regional Civil Society Consultation** in preparation for the second UN High Level Dialogue on Migration and Development (UNHLD), which will take place in October 2013. This consultation—one of seven regional consultations spearheaded by the Global Coalition on Migration taking place globally over the next two months—brought together 60 trade unionists, civil society organizations, and independent activists representing 43 organizations and 17 countries in the Asia Pacific region. Participants deliberated on the following series of concrete policy recommendations that will be put to governments during the Civil Society Interactive Hearings in New York on July 15, 2013, and advanced during the Civil Society Days of the UNHLD.

The following policy recommendations fall under seven themes: Regulating the Recruitment Industry, Stranded Migrants, Labour Rights, Migration and the Post 2015-Development Agenda, Rights for Women / Best Interests of Children, and Redefining International Mechanisms of Migrants' Rights Protection, and promising practices in national legislation for each of the previous six sections. These themes are derived from the **7-point, 5-year Agenda** of the Civil Society Steering Committee for the UNHLD—endorsed by more than 100 organizations worldwide.

The 7-Point, 5-year Agenda is a result of a number of discussions among civil society groups, including trade unions that are actively engaged on the issue of migration and development. These processes included the following: GFMD Mauritius (November 2012); the 5th World Social Forum on Migration, Manila (November 2012); the GCM meetings in Mauritius, Ghana, and Manila; and the recent meeting of the GCM in New York last January, where the group decided to use this document as a reference for discussions. The 7-point, 5-year Agenda has been submitted to the UN Secretariat, the members of the UN General Assembly's Second Committee, other New York-based UN missions, and, most recently, to the Population Dynamics and Post 2015 Agenda consultation in Geneva.

Regulating the Recruitment Industry

Recruitment agency regulation has been at the top of the agenda for migrant workers and migrants' rights advocacy organizations for many years. While governments have acknowledged the need for enhanced regulatory mechanisms for this industry, efforts to implement effective measures have, thus far, been unable to bring about much-needed reforms to alleviate the gross exploitation of migrant workers. Serious gaps persist in recruitment procedures as proscribed by national laws/policies and the actual experience of migrants as they navigate recruitment processes. Examples of these gaps include contract substitution; multiple contracts; loans tied to employment contracts; false promises; collusion between corrupt government officials, recruitment agencies, and lending agencies; and payments without receipts.

Trade unions and civil society have developed recommendations to governments on how to approach the many challenges of regulating the recruitment industry in a number of national, regional, and international forums. The following policy options are open to states to better regulate this industry.

Cooperation between origin and destination countries to decrease financial costs of migration

The financial cost of migration is relatively high, and disproportionately higher for low- and semi-skilled migrant workers. While regulated in many country contexts, recruitment fees are often much higher than officially recorded, as sub-agents charge illegal fees and extort money from prospective migrants. Many families borrow money from unscrupulous lenders at high interest rates or acquire debt directly from their recruiters to fund their migrations. Moreover, some governments have policies whereby migrant workers must borrow money from banks at high interest rates to pay their placement fees upfront. These loans are paid back through salary deductions. Effectively living and working under conditions of debt bondage, migrant workers often agree to long hours and unacceptable working conditions for fear of losing their jobs, or with the objective of earning money quickly to alleviate this added financial burden. In addition, in sending money home migrants are charged high fees by banks or wire services for every transaction, adding further to the financial cost of their migrations. Thus,

Promising Practices in decreasing migration costs

Philippines

Republic Act No. 8042 Migrant Workers and Overseas Filipinos Act 1995

- Section 5 ensures a cap of 8% interest on loans to migrant workers for placement fees
- Section 7 stipulates penalties for illegal recruiters
- Recruiters caught engaging in illegal or exploitative activities, such as overcharging migrant workers, have their licenses cancelled and their names are published on a blacklist.

- To alleviate these unnecessary financial burdens, origin and destination country governments should cooperate and work together on solutions to alleviate the high financial costs that amplify migrant workers' risk of human rights violations. This includes strengthening enforcement of regulations on the charging of illegal recruitment fees.
- All governments should ratify ILO C181, Private Employment Agencies Convention (1997).
- Governments should exercise their regulatory functions to guard against exploitative practices of financial institutions engaged in remittance transfers.
- Governments should increase transparency in remittance procedures by listing the charges for remittances through official channels from country of destination to country of origin.
- Governments should facilitate access of migrant workers and their families to safe channels for remittances.

Hong Kong

- Filipino domestic workers do not pay placement fees; employers pay all recruitment fees directly.
- This practice only applies to Filipino domestic workers and should be extended to all migrant workers regardless of nationality.

Japan

Japan is the only Asian country to ratify C181, Private Employment Agencies Convention (1997)

Establish codes for ethical recruitment by agencies

- As a means of working towards the eradication of industry corruption, codes of ethical recruitment, such as the WHO Code of Action on the International Recruitment of Health Personnel and the Commonwealth Code of Practice for the International Recruitment of Health Workers, should be implemented at the national, regional, and international levels. Such codes should be developed in collaboration with recruiters, employers, government agencies, trade unions, civil society, and migrant workers, and should be signed onto by recruiters and/or professional associations of recruiters, and can draw on recommendations from various forums.
- Governments should explore and implement government-to-government recruiting programs to alleviate reliance on private recruitment agencies.
- Recruitment agencies should not charge fees from migrant workers.
- While awaiting deployment, migrants are sometimes made to work without pay by their recruiters, and are subject to migration-related detention prior to departure. Governments should monitor these trainings and ensure that these practices are stopped.
- The ILO should develop a convention on ethical recruitment to establish international standards for recruitment.
- The UN Migrant Workers Committee should adopt a General Comment on recruitment.

Create transparent licensing systems for recruiters

Attempts to register and license recruitment agencies in origin and destination countries have largely been ineffective. In many cases, once blacklisted, recruiters are able to reestablish their operations under different names or in different cities. Thus, more effective and transparent licensing systems are required. Such systems should include:

- Stringent standards for the accreditation of recruitment agencies set by governments
- Comprehensive laws and effective complaints mechanisms to regulate and monitor recruitment agencies
- A government body that focuses on licensing and regulation of recruitment agencies and validates authenticity of documents
- Clear and immediate sanctions against recruiters in violation of licensing requirements
- License cancellations for errant recruitment agencies
- Compulsory periodical assessments of the practices of recruitment agencies

Simplify recruitment procedures

Among the many, multifaceted reasons that migrant workers are rendered vulnerable is that recruitment systems are complex and can be difficult to navigate, particularly for migrant workers with low levels of literacy or knowledge about how the system works. Some prospective migrants choose irregular migration paths or trust illegal recruiters on the advice of family, friends, or acquaintances to avoid engaging with complex, bureaucratic systems. To avoid such pitfalls,

- States should re-examine existing recruitment procedures and implement simplified systems and establish a one-stop processing centre to progressively eliminate brokers and intermediaries involved in the process, with a view to reducing instances of illegal recruitment.
- States should establish accessible workers' assistance centres to assist migrants and prospective migrants in the recruitment process

Promising Practices in licensing recruiters

Sri Lanka

SLBFE Act, No. 21 of 198

- Manages & monitors the labour recruitment industry through an accreditation process to obtain and renew recruiter licenses.
- Promotes best practices of employment agencies through an award system.

Nepal

Foreign Employment Act (2007), Foreign Employment Regulations, 2064 (2008)

- Penalties for offenses including sending minors abroad, operating without a license, disobeying employment contracts, etc.

Promising Practices in simplifying procedures

Thailand

Employers wanting to hire Thai workers must register with the Thai Overseas Employment Administration and show their business registration permit, a model or standard employment contract, and visa forms for workers.

Taiwan

Direct Hiring Service Center

Workers are hired through the Council of Labour Affairs, not recruitment agencies.

Effectively disseminate pre-decision and pre-departure information

- Governments must ensure that migrant workers are adequately informed of their rights, realities of migration, ethical recruitment practices, social costs of migration, redress mechanisms and access to justice, how to access assistance in the case of emergencies, culture in destination countries during both the pre-decision and pre-departure phases.
- Governments should provide adequate country-specific, sector-specific, rights-based, and gender responsive pre-departure orientations to migrant workers



Discussions on Promising Practices at the Asia-Pacific Consultation

Promising Practices in information dissemination

Philippines

Pre-employment Orientation Seminar

- Designed for prospective migrants who have not yet decided to go abroad; informs potential migrants of the risks and rewards of migration and legal procedures for securing employment to enable people to make informed decisions on whether to migrate.

Pre-departure Orientation Seminar

- Compulsory orientation providing information on rights and obligations
- The Philippines also has orientation programs designed specifically for top destination countries, which cover language and provisions in bilateral agreements.

Indonesia

Indonesia and the IOM disperse information on safe migration through a Safe Migration Pocket Guide and by holding safe migration sessions through cooperation with schools, communities, and the police.

Implement mechanisms to promote good recruitment practices and expose bad practices

Governments should work on specific initiatives to identify, in a comprehensive way, the good and bad practices, and to put systems in place to promote the good practices and expose/eradicate the bad practices. Trade unions and civil society have made some recommendations to achieve that end:

- Establish Agency-Employer Watch or a Multi-stakeholder Monitoring Committee that includes trade unions and civil society
- Governments should exercise due diligence in the conduct of their work to improve the implementation of existing mechanisms to deter agencies from circumventing the law, taking actions including:
 - Imposing penalties for offenses including but not limited to sending minors abroad, operating without a license, disobeying employment contracts, and sending workers to countries not approved by the government.
 - Prosecuting errant recruitment agencies
 - Forbidding agencies from withholding workers' travel and employment documents
 - Maintaining publicly available and widely shared blacklists of errant recruiters and disclosing the names of unscrupulous recruitment agencies and persons involved (e.g., Governments should post and continually update agency blacklists (employers and recruitment agencies) on official government websites, and share these lists among countries through foreign missions.)
 - Give recognition to recruitment agencies with good practices
- Address corruption related to recruitment and penalize government officials engaging in malpractices
- Governments should create multi-sectoral networks including trade unions and civil society that would ensure ethical recruitment practices are implemented (e.g., knowledge-sharing, material development and dissemination, lobbying, etc.)

Develop mechanisms to match education/training programs with labour market needs (at home and abroad)

- To address problems of mismatches between labour supply and demand, and the resultant deskilling and/or unemployment of migrant workers in their countries of origin and destination, governments should work towards policies of skills and credential recognition, and provide opportunities for skills and credential upgrading.
- Providing opportunities for skills and credential upgrading should be accompanied by the creation of public employment agencies to assist in the placement of migrant workers (in particular, for migrant domestic workers).
- Governments should undertake labour market analyses on the short- and long-term needs for foreign employees and the skills required, in both origin and destination countries. Governments must allocate adequate resources in order to regulate the recruitment industry.

Stranded Migrants

Migrants stranded in emergency situations have garnered considerable attention at the international level in light of the 2011 crisis in Libya, in which migrant workers fled to border areas to await evacuation due to the outbreak of hostilities. These migrants were, effectively, stranded, as they were unable to leave their country of destination without assistance. Much of the thinking on this concept has, thus far, been undertaken through a humanitarian lens; strandings are seen as infrequent, anomalous phenomena to be dealt with through international aid and assistance. However, migrant worker communities understand this as a human rights issue, arguing that migrants can become stranded in many ways (due to undocumented status or statelessness, lack of financial resources, inability/unwillingness to move, strict border controls—in addition to emergency situations).

Governments must not see the label of stranded migrants as outside the existing human rights legal frameworks, but as complementary to existing human rights frameworks including:

- The Refugee Convention (1951)
- The International Convention on the Rights of All Migrant Workers and Members of their Families (1990)
- The Convention on the Reduction of Statelessness (1961)

Governments should account for the various ways in which migrants can be considered “stranded”

Migrants become stranded in many different ways—with emergency situations being one among many scenarios that can render migrants stranded. These scenarios have a range of implications for their legal status and personal safety, security, and well-being. These situations include:

- Migrants stranded due to civil unrest
- Migrants stranded due to natural disasters
- Migrants stranded due to climate change
- Migrants stranded due to epidemics
- Migrants stranded due to gender-based violence
- Migrants stranded due to immigration controls
- Migrants stranded due to lack of documentation and statelessness
- Migrants stranded due to a lack of financial resources
- Migrants stranded due to an unwillingness to return
- Migrants stranded due to imprisonment

- Migrants stranded in safe houses/shelters
- Migrants stranded due to conduct of employers
- Migrants stranded due to dependency status
- Migrants abandoned by smugglers en-route

In relation to migrant workers stranded due to states of emergency (conflict, environmental catastrophe, etc.), states should consider the following policy options:

Collaborate on the development of comprehensive contingency plans that are gender-responsive and rights-based

Rather than coordinating emergency responses on an ad hoc basis, a coordinated, migrant-centred, gender-responsive, and rights-based approach would facilitate the efficient evacuation of stranded migrants, regardless of nationality, legal status, or gender-identity, from centres of crisis. To that end,

- Governments should never criminalize or detain migrants in emergency situations. Governments should collaborate with civil society organizations to provide appropriate quality services including access to safe shelters, psychosocial support, and assistance to stranded migrants and assuring that such services are provided in languages understandable to migrants.
- Governments (origin, transit, and destination) should develop partnerships with local and international agencies (OHCHR, OCHA, UNHCR, ICRC and local affiliates, ILO, IOM, Office of the UN Secretary General, UN Women, International Coordinating Committee of National Human Rights Institutions), humanitarian organizations, host communities, and migrant communities to develop emergency response plans well in advance for ‘at-risk’ areas, to be enacted immediately in times of crisis.
- Countries of origin should develop multi-stakeholder taskforces to coordinate with host country officials, neighbouring governments, and migrant communities to ensure swift and appropriate responses to prevent migrants from becoming stranded in the first place.

Promising Practices in contingency planning

India

Indian Community Welfare Fund (ICWF)

- The Ministry of Overseas Indian Affairs has established the ICWF in the Indian missions of 43 countries that have a significant overseas Indian population.
- Provides boarding and lodging for distressed overseas Indian workers in the domestic work sector and ‘low-skilled’ workers
- Extends emergency medical care to the Indians in distress
- Provides air passage to stranded migrants
- Provides initial legal assistance to the Indians in deserving cases
- Covers expenditures for airlifting remains to India or local cremation of the deceased overseas Indians in such cases where a sponsor is unable or unwilling to do so and the family is unable to meet the cost.

- Countries of origin should include information about emergency contingency plans during pre-departure orientation sessions. Sessions should include discussions of particular types of emergencies and plans in place to support them.
- Governments should ensure provision of adequate emergency medical services, including for sexual and reproductive health, as well other basic essential services to such as food, water, sanitation, and safe shelter.
- Plans for stranded migrants should be included in MOUs between countries of origin and destination, and include guarantees of protection for countries of origin and destination.
- Governments should put in place mechanisms for migrants and members of their families to safely seek assistance in the event of being stranded without fear of forced-removal or criminalization in respect of their human rights.
- Governments should call on (and assist) the UN Special Rapporteur on the Human Rights of Migrants to conceptualize a coordinated protection framework for migrants in dire humanitarian situations, including guiding principles.
- States should make migrants in crisis a priority on the agendas of Regional Consultative Processes, and ensure that all stakeholders are involved in these processes.

Provide essential identification/travel documents to allow migrants to freely move to safe areas that are consistent with human rights

In countries where exit permits are required in addition to entry/work visas, standard and immediately-available emergency exit permits that do not require the consent of the employer should be issued in cases of natural disaster, armed conflict, wars, insurgencies, etc. to allow for the evacuation of migrant workers who wish to leave, or the usual exit requirements should be waived. Emergency exit permits should include provisions such that the migrant is able to return to the country of destination when the situation has been resolved. Origin country embassies should collaborate with host country governments in ensuring that such permits are issued. This will alleviate cases in which migrants have become stranded simply because they lack access to the necessary documents to depart.

Consider and provide alternatives to repatriation

In emergency situations, some stranded migrants may choose to stay in unsafe areas. This response can be for a variety of reasons—the migrant may fear that s/he will be unable to return once the emergency has subsided, if the migrant is undocumented s/he may fear detention or other repercussions, or there should be other personal reasons that s/he does not want to return home. In the interests of creating migrant-sensitive response mechanisms, states should offer options other than repatriation. Possible migrant-responsive alternatives include:

- Implementing safe zones in countries of destination or in third countries, which include support from the community to ensure that these zones are responsive to migrant needs
- Facilitating temporary evacuations to third countries
- Providing information on and support for re-migration following repatriation through safe migration channels
- Reviewing migrant-responsive options and consulting migrants on their evacuation and/or repatriation options when proactive contingency plans are formulated, with a view to implementing migrant-responsive mechanisms.
- Governments and embassies should utilize available technologies to map the current locations of migrant workers.
- Governments should enable migrants to make informed choices (whether to evacuate or remain) in cases of emergency without fear of criminalization and/or forced repatriation.

Create comprehensive plans to assist all migrant evacuees with reintegration

- Migrant sending states should create plans for those forced to return home due to emergency situations. To do so, they should make plans to assist returnees in accessing good employment or up-skilling opportunities. Such plans should be designed with large influxes of returnee migrants in mind, and appropriate resources should be allocated for such contingencies.
- Governments should allocate sufficient resources to provide relief and rehabilitation for migrant evacuees, and provide necessary psychosocial support.
- Governments should ensure that mandatory insurance schemes cover emergency situations. Any insurance schemes should be provided at no cost to the workers
- Origin country governments should work with recruitment agencies to prioritize migrant evacuees in redeployment

Promising Practices in contingency planning

Philippines

Repatriation Program of Overseas Workers Welfare Office (OWWA)

This program organizes repatriations of distressed migrant workers in the event of political unrest, war, epidemics, and natural and human-made disasters. Costs are borne by the recruitment agency.

Sri Lanka

SLBFE Act No. 21 of 198, National Labour Migration Policy for Sri Lanka (2008)

This act includes the provision of psychological support, medical support, and repatriations for distressed migrant workers.

Migration & the Post-2015 Development Agenda

The Millennium Development Goals (MDGs) are slated for review as the current goals are set to expire as of 2015. Migration was not included in the original MDGs, despite the links so often made between migration and development. Migration is relevant to a number of the existing goals, and discussion/analysis is being undertaken to determine how migration should fit into the Post-2015 Development Agenda.

States tend to favour the ‘migration for development’ discourse, which positions migrants as remitters and agents of development, rather than as human beings whose human and labour rights are the central concern. To avoid this pitfall in deliberations over the place of migration in the post-2015 development agenda, it may be useful to consider the numerous policy recommendations trade unions and civil society have made in relation to migration and development over the years. States should consider the following practical recommendations and policy options:

Prioritize a Rights-Based Approach to Migration & Development

When considering the place of migration in the post-2015 agenda, governments must prioritize a rights-based framework that takes into account the UN Declaration on the Right to Development, which states that the “right to development is a basic and inalienable human right.” Likewise, migration policies should be rights-based—they should not be discriminatory and exploitative, but should protect migrants’ human rights and should deconstruct gender, class, and other systemic social structures that cause abuse. Rights-based approaches will help to maximize the developmental benefits of migration. States should implement the following recommendations:

- States should integrate a rights-based approach to migration into each of the goals for the post-2015 development agenda.
- Development should be understood as a process that creates an enabling social, cultural, and legal environment for everyone, including all migrant workers and their families. This process should ensure migrants access to quality public services such as health, education and social services, access to justice, social protection without discrimination of any kind
- Governments must prioritize creation of decent work and living conditions instead of relying on temporary/circular migration programmes that have been designed to strip workers of their human and labour rights and exacerbate brain drain in developing countries. Temporary migrant workers are often excluded from the full protection of labour laws, access to social

security, support services for integration in host societies and the right to family reunification and citizenship.

- All migrants should have the opportunity to be part of policy-making processes, including multi-stakeholder processes.
- Governments should ensure migrants' rights, including freedoms of association, expression, assembly, movement and their rights to collective bargaining.
- Governments should consider adopting a policy of universal citizenship, as has been adopted by Ecuador, with the guiding principle of free and unconditional movement.
- The focus on counter-terrorism and national security has deprioritised and undermined the human rights of migrants. Migration and development issues and national security issues are separate, and should be treated as such. To that end,
 - Governments should separate migration policies from their national, regional and international security agendas and consider migration issues under a framework of human rights.
 - Governments should promote human security
 - Immigration infringements should be treated as civil and administrative matters rather than criminal or security offences

Make migration a choice, NOT a necessity

Despite the many and well-documented root causes of migration, host and sending country governments have been slow to pursue policies directly aimed at alleviating these issues. The high demand for cheap and expendable labour coupled with restrictive immigration and temporary work permit regimes create adverse conditions for labour migration and put migrants in vulnerable and exploitable situations. Perspectives on migration and development must take into account the historic forces of unequal development that contemporarily embedded in migration. In the interests of recognizing their responsibility for ensuring sustainable human development governments should strive *to make migration a choice, rather than a necessity*. To that end,

- Migration policies should take into account of the many patterns of forced migration (i.e., due to climate change, lack of decent work, discriminatory developmental practices, and political repression).
- Governments should provide technical and financial resources to support development in countries of the Global South as agreed in intergovernmental processes such as WSSD, Rio, IPCD.
- Governments of origin countries should implement strategies to improve essential public

Recognize the contributions of migrants to development and work with diaspora communities to enhance these contributions and mitigate the negative impacts of migration

While migration can bring multiple benefits, it can also come with complex costs. States tend to look to migrant workers as economic tools rather than as rights-holders and human beings. To maximize the benefits and minimize the costs of migration, states should consider the following policy options:

- Governments must recognize that relying on remittances is not sustainable for long-term development. Governments should implement policies, mechanisms, and national programmes for social development, and reintegration. Development policy should address the problems of gender inequality, poverty, job security, holistic and sustainable livelihoods of the people. To that end,
 - Governments should implement policies to ensure the low cost of accessible remittance or money transfer channels. Any profits on remittances made by the state or companies such as Western Union from the fees charged or by governments from the currency exchange should be used in part or in full to support social and community needs and services, as well as to mitigate the social impacts/costs of migration.
 - Governments should cooperate with trade unions and civil society to help professionals in diaspora communities engage in expertise and knowledge sharing with their counterparts in origin countries in order to facilitate human and economic development.
- Governments must recognize the socioeconomic, political, technological and cultural contributions of migrants in destination countries. To better enable migrants to make such contributions states should implement the following recommendations:
 - Recognise migrant skills and qualifications and provide opportunities to upgrade migrants' skills

Philippines

Education for Development Scholarship

Scholarships granted to qualified dependents of migrant workers at any college university

Overseas Filipino Worker Dependents Scholarship

To assist children of migrant workers in financing their education leading to a degree at any state or college university.

Education and Livelihood Assistance Program

Provides scholarships for the dependents of deceased migrant workers and a livelihood assistance fund for the surviving spouse.

On-site Reintegration Preparedness

Training on financial literacy, entrepreneurial development, and technological skills.

In-Country Reintegration

Local and overseas job referrals, business counseling, community organizing, financial literacy, networking with support institutions, and social preparation programs.

Pinoy Worldwide Initiative for Investment Savings and Entrepreneurship (WISE)

A financial literacy initiative enabling migrants to save and invest money earned abroad.

- Government should take the lead in moving towards an inclusive understanding of the crucial and many positive impacts migrants have on the societies of destination countries. Governments should correct prevailing misconceptions of migrants such as the term “illegal immigrants.”
 - States should NOT criminalize migrants.
 - Foster positive relationships between migrants and nationals, for example by providing information on the issues surrounding migration and the cultures of migrant communities.
- Develop trainings for law enforcement officers, teachers, nurses, and government officials to develop their skills to work in the multicultural or multilingual settings.



Finalizing recommendations on the final day of the consultation

OWWA’s Workers Welfare Assistance Program

Fields requests for assistance on migrant workers’ whereabouts, psychosocial counseling, conciliation, hospital/prison/work camp visitations and legal assistance to migrant workers who wish to pursue labour/welfare cases in the host country.

Pakistan

Workers Welfare Fund

This fund now includes housing construction programs and scholarships for migrants’ children.

Republic of Korea

Happy Return Programme

- Training and consulting for those who plan to open a business when they return
- Pre-return recruitment services (assistance in applying for jobs with Korean companies in the country of origin)
- Administrative support (guidance and support for insurance benefit claims)

Japan

Residency Management & Basic Resident Registration System (2012)

- Foreign residence, previously registered under the Alien Registration Act, is incorporated into the Basic Resident Registration System, which also registers Japanese nationals.
- Foreigners receive a residence card and fall under the national healthcare system.

Labour Rights

In many destination countries migrant workers, particularly migrant domestic workers and migrant workers of irregular status, fall outside labour laws. In some countries, both local and migrant workers such as seafarers, seasonal workers, and agricultural workers fall outside the protections of national labour laws, particularly the right to association and collective bargaining. Where labour laws cover migrant workers, enforcement and access to redress mechanisms are often found to be problematic—migrant workers may feel intimidated by their employers and fear reprisals for complaints, language barriers may hinder access, migrants may prefer to remain silent to avoid losing their jobs, migrants may lack access to support groups, etc. To ensure that migrant workers are recognized as workers, that labour laws cover migrant workers and that governments enforce labour standards, and that migrants have access to redress mechanisms, governments should consider the following policy options:

Ensure that national labour laws are in line with international standards including the protection of migrant workers

As members of the international community, governments are obligated to bring their labour laws and enforcement mechanisms in line with international labour standards set by the ILO and international law. They must ensure that the design and implementation of state migration and labour policies do not violate human rights, criminalize irregular migrants, deny migrant workers access to decent work, and generally fail to prevent the exploitation of migrant workers. To that end,

- Governments should ratify and implement the following international conventions:
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
 - International Convention on the Elimination of all forms of Discrimination Against Women (1979)
 - The 1951 Refugee Convention and 1967 Protocol
 - ILO Convention No. 181: Private Employment

Promising Practices
in compliance with international
standards

Cambodia

Labour Code (March 13, 1997)

- Section 2 Non-Discrimination, Article 12 stipulates that employers shall not discriminate on the basis of: Race, Colour, Sex, Creed, Religion, Political Opinion, Birth, Social Origin, or union membership
- Protections extend to foreign workers in Cambodia

Bahrain

Decree 79 (2009)
("In accordance with Act No. (19) Of

Agencies

- ILO Convention No. 189: Domestic Workers
 - ILO Convention No. 143: Migrant Workers (Supplementary Provisions)
 - ILO Convention No. 97: Migration for Employment
 - ILO Convention No. 19: Right to Compensation
 - ILO Convention No. 118: Equality of Treatment (Social Security) Convention (1962)
 - The International Convention on the Elimination of All Forms of Discrimination
 - The ILO's Eight Core Conventions:
 - C87 Freedom of Association and Protection of the Right to Organise Convention (1949)
 - C98 Right to Organise and Collective Bargaining Convention (1949)
 - C29 Forced Labour Convention (1930)
 - C105 Abolition of Forced Labour Convention (1957)
 - C111 Discrimination (Employment and Occupation) Convention (1958)
 - C138 Minimum Age Convention (1973)
 - C182 Worst Forms of Child Labour Convention (1999)
 - Additional guidance on rights-based approaches to migration should be considered from the following:
 - ILO's Multilateral Framework on the Protection of Migrant Workers
 - UN Declaration on the Right to Development
 - World Conference Against Racism Program of Action
 - Cairo Conference on Population & Development Program of Action
 - 4th World Conference on Women, Beijing Platform of Action
 - Recommendations from the Universal Periodic Review
 - Recommendations from relevant treaty bodies and
- 2006, Article No.25 and its amendments as well as Resolution No. (79) For 2009 - Corrected by law No.(15) for 2011 with regards to regulating the procedures for foreign workers' mobility (local transfer) to another employer)
- Allows migrants to change jobs without the consent of their employers.
 - An authority reviews the legality of the request to change employers
 - Legal disagreements between employers and employees are settled in the high courts
 - Foreign workers can transfer to another employer without the consent of the current employer providing that the foreign employee has spent at least one year in his current employment with the current employer, the employee and his new/prospect employer only have to follow the rules and procedures in order to complete that process smoothly." For more information on this please see: <http://portal.lmra.bh/english/page/show/108#.Ugl4e8f6hD8>

United Arab Emirates

Wage Protection System

- An electronic salary transfer system that allows employers to pay workers' wages through banks, exchange bureaus, and other financial institutions accredited by the Central Bank.
- The Central Bank issues a regularly updated list showing names of approved and authorized agents.
- Those who refuse to use the

special procedures

- Governments should review their existing labour and migration policies to ensure that they abide by the core UN and ILO conventions that protect the rights of migrant workers. Where discrepancies exist, governments must put processes in place to harmonize existing laws and policies with labour and human rights standards.
- Governments should refer to the ILO Multilateral Framework on Labour Migration for guidance in bringing laws and policies in line with international law.
- to ensure that “low- skilled” workers have the same rights to with respect to the portability of work permits, family reunification, and possibilities of permanent settlement as “high-skilled” workers.
- Governments should engage in evidence-based discussions on migration, and should undertake a mapping of promising practices on the protection of migrants and progress towards the adoption and implementation of these practices.
- Governments should promote a rights-based approach, ensuring the right to association, equal pay, access to social security, compensation for work-related accidents and injuries, employment opportunities, and promoting equal treatment and non-discrimination.
- Governments should recognize domestic workers as workers and incorporate domestic workers rights in national labour law and relevant policies in line with ILO Convention 189.
- Governments should work to eliminate discriminatory laws and practices against migrant sex workers.
- Governments, in consultation with migrants, trade unions, and diverse civil society organizations, should draft and implement mechanisms utilizing available technology to ensure timely, regular, and full payment of wages as well as overtime, bonuses, social security, and all other benefits stipulated in the employment contract
- Governments should sign and implement transparent and accessible bilateral agreements that build on international standards for the protection of the rights of all migrant workers, with strict monitoring and implementation

system are refused business licenses.

- Allows the Ministry of Labour to record the wages paid to workers through the creation and utilization of a database
- Ensures that employers fulfill their salary obligations

Taiwan

Trade Union Act (Amended in 2010)

- Article 4 stipulates that all workers are allowed to form and join trade unions, thus extending that right to migrant workers.

Labour Standards Act (2002)

Migrant workers are entitled to the following protections:

- Maximum of 48 hours per week
- One rest day/week
- Maximum daily overtime of two hours
- Mandatory overtime payment
- Daily breaks
- Annual leave and holidays

Japan

Labour Union Law

- Article 5(2)(iv) states, “no one shall be disqualified from union membership in any case on the basis of race, religion, gender, family origin or status.”

mechanisms of the same. Such bilateral agreements should include provisions for the portability of pensions and the full range of social protection mechanisms.

- Governments should cooperate with employers, labour unions, migrant worker communities and other civil society organizations to promote rights-based approaches to migration and development policies that will ensure family (re)unification and protection and promote the right to information and freedom of association for all migrant workers, irrespective of legal status.
- Migration policies should be designed / modified to include mechanisms through which temporary migrants can access permanent residency and citizenship.
- Governments should ensure that migration schemes mutually recognize the skills and qualifications of migrants, towards decent work, equal treatment, and non-discrimination.
- Governments of countries of destination should end tied-visa systems and work permits that bind workers to a single employer, as this increases workers' vulnerability considerably and is contrary to international labour and human rights conventions. Work permit and/or visa systems must be created such that workers have flexibility in choice of work and are not bound to their employer.
- Governments should extend multiple entry visas to migrant workers that enable them to return home to visit their families or to leave the country of destination in emergency situations, without losing their legal status.
- Governments should implement policies that in the event a migrant worker loses their job or chooses to leave, they have the right to stay and find new employment. Where unemployment benefits are available for local workers, these benefits must also be available for migrant workers.
- Governments should reform work visa and permit systems

Ensure the right to social protection, including the right to health and to safe and healthy workplaces

- Governments should ensure that migrants have access to the highest attainable standards of physical and mental health services, including for sexual and reproductive health.
- Governments should recognize, respect and affirm migrants' rights to health. This should include the implementation of safe working conditions and regular inspections of work places, including the elimination of fire hazards.

Promising Practices
in ensuring social protection

Thailand

Care & Support for Migrants
and Mobile Populations
(2007)

Migrants diagnosed with HIV are given treatment. Includes promotion of migrant self-care

Taiwan

Occupational Health and
Safety Act (2011)

Covers all documented workers.

- Governments must lift any discriminatory policies based on health status, including HIV status and contagious diseases such as TB that may affect the rights of migrants.



Meeting of the Women's Caucus

Ensure that migrants, irrespective of legal status, have access to redress mechanisms when their rights have been violated

- Legal proceedings for cases involving migrant workers are often administered in the language of the host country without the aid of an official, qualified interpreter. Thus, qualified and independent interpreters must be provided by the state in all legal cases involving migrants
- Governments should ensure that effective and expedient complaint and redress mechanisms, specifically for migrants' rights violations, are in place, and that they are open to migrants with the right to keep their identity and legal status confidential. Governments should also ensure protection of migrant workers against legal reprisals of employers.
- Governments should provide free legal support through retainers and access to redress mechanisms for migrant workers and should facilitate access to safe shelter and appropriate services.
- Governments should have funds to support (or in-house

Includes medical exams

Taiwan

Employment Insurance Act (Amended May 2009)

- Unemployment benefit
- Early Reemployment allowance
- Vocational Training Living Allowance
- Parental Leave Allowance

Pakistan

Emigration Ordinance 1969, National Migration Policy (2010)

Social insurance scheme including health and pensions for Pakistani migrant workers.

Promising Practices in ensuring legal redress

Philippines

Republic Act No. 8042 Migrant Workers and Overseas Filipinos Act (1995)

- Section 13 stipulates that migrant workers are entitled to free legal assistance.

India

Overseas Workers Resource Centre

- Registering, responding to and monitoring complaints received from emigrant workers or prospective emigrants.

staff to provide) pro bono services to migrants in need of legal support. Lists of organizations providing legal services to migrants should be provided by/shared among embassies.

- Countries of destination should allow migrant workers and survivors of human trafficking the option to stay and seek optional gainful employment in situations where legal proceedings are underway.

- Grievance redress and follow-up with stakeholders

Republic of Korea

Complaint mechanisms and support services

- Sending countries send employment officers to Korea to monitor the well-being of their national workers

Engage in awareness-raising on the labour and human rights of migrants

- Governments should commit resources to the enforcement of migrants' rights protection regimes, including providing awareness-raising and capacity-building, to government officials to develop their sensitivity on migrants' rights issues and understanding of how to effectively implement corresponding laws and policies.
- Governments should actively cooperate with trade unions, civil society, and media organizations to employ and share promising practices for public information and awareness-raising campaigns.
- Governments, in cooperation with migrants, trade unions, and diverse civil society groups, should ensure that migrants, including those in an irregular status, know and are able to exercise their rights and responsibilities.

Extend support to irregular migrants in accessing their rights

- Migrant workers regardless of status should have the right to seek medical and legal services without fear of arrest, detention, or deportation; service providers should be exempt from prosecution for providing these services.
- Governments should decriminalize irregular status and

only ever treat this as an administrative offence. There should be a presumption against detention for migrants in deportation proceedings, and detention should only be applied in exceptional cases and only ever as a last resort.

- Governments should make available multiple avenues for regularization. Migrants should never have to rely solely on employers to ensure that their documents are properly filed and validated.

Promising Practices in rights for irregular migrants

Japan

Labour Standard Law

Protects migrant workers, including those who are undocumented, under the law.

Rights for Women & Best Interests of Children in Migration

Women experience migration in different ways, as migrant workers, as dependents of migrant workers, as marriage migrants, and as individuals affected by migration. Women in migration, particularly migrant workers, experience increased and specific risks on account of their consistent inability to access labour, legal, and social protection. In some sectors (including domestic work and other sectors dominated by female labour), working and living conditions exacerbate such risks, leaving women migrant workers at risk of sexual and physical violence, immigration detention, poor health, denial of sexual and reproductive health and rights, late payment or non-payment of wages, illegal withholding of travel documents, wrongful termination of contracts, lack of access to justice, etc.

Given the intersectionality of the challenges facing women in migration, states should proactively formulate and enact laws and policies on migration, adhering to international human rights instruments centering the rights of women, such as the ICPD PoA, BPfA, and CEDAW, including its General Recommendation 26. Migration policies of origin, transit and destination countries should make women visible in their migration policies and recognize women as rights holders contributing to the economy and development. To that end, governments should consider the following policy options:

Ensure that migrant women's rights are protected as per the guidelines set out in the CEDAW, other international instruments, the work of the human rights treaty bodies and special procedures, and outcomes from the UN Commissions on the Status of Women and on Population and Development

Governments must take into account the long history of gender discrimination and historically unequal power relations between women and men and uphold women's right to decent work, health, education, security, justice, and to be free of discrimination when entering and leaving a country. To that end,

- Governments should develop rights-based, gender-responsive monitoring indicators and disaggregated data on migration and development policies and trends, including indicators to measure progress on the items indicated in International Covenant on Economic, Social

Promising Practices in ensuring women's rights

Philippines

Republic Act No. 9262 Anti-Violence Against Women and their Children Act (2004)

- Section 6 outlines penalties including imprisonment, fines, and mandatory counseling and psychological treatment for the victimizers.
- Section 13 guarantees legal aid for women or children with claims of violence, exploitation, or abuse.
- Section 40 empowers the

and Cultural Rights (1966), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), and other human rights instruments, including the Program of Action of the International Convention on Population and Development, the Beijing Platform for Action, CEDAW General Recommendation 26.

- Governments should refer to CEDAW General Recommendation 26 and the Guideline 9.8 of the ILO Multilateral Framework on Labour Migration, which gives particular attention to domestic workers, trainees, temporary migrant workers, and migrant women, in advancing policies that protect the rights of migrant women to family and mobility.
- Governments should ratify and implement ILO Convention 189, recognising domestic workers as workers, and providing protections for them under national labour laws.
- Governments should also work to ensure that the employment of migrant women is not primarily limited to the informal sector and that rights protections are extended to women in the informal sector including the right to association.
- Governments should ratify and implement relevant ILO Conventions:
 - C87 Freedom of Association and Protection of the Right to Organise Convention (1949)
 - C98 Right to Organise and Collective Bargaining Convention (1949)
 - C29 Forced Labour Convention (1930)
 - C105 Abolition of Forced Labour Convention (1957)
 - C111 Discrimination (Employment and Occupation) Convention (1958)
 - C138 Minimum Age Convention (1973)
 - C182 Worst Forms of Child Labour Convention (1999)
- Governments must recognize that women are rights bearers and active agents in claiming their rights and contributing to just and fair development, and should actively prioritize ending all forms of discrimination against women, regardless of legal status or factors

Department of Social Welfare and Development and local government units to provide victims of abuse with counseling, psychosocial services and/or, recovery, rehabilitation programs, and livelihood assistance.

- Section 43 states that all women victims of violence are entitled to paid leave

Singapore

The Singaporean government has implemented a weekly rest day for domestic workers. Employers can substitute this rest day with an additional wages if the domestic worker agrees.

Taiwan

Human Trafficking Prevention and Control Act (2009)

- Articles 3 and 5 stipulate that trafficking victims with a valid resident visa or visitor visa that grants permission to work will be issued work permits.
- Article 17 stipulates that labour affairs authorities shall, on their own initiative or cooperate or provide funding to NGOs to provide suspected human trafficking victims with: Protection and personal safety; Shelter; Medical assistance; Interpretation assistance;

including nationality, age, sexual orientation or gender identity, health and pregnancy status, developing an intersectional perspective on gender that establishes protections that recognize and take into account the numerous, specific risks that migrant women face and provide redress, including compensation.

- Governments should ensure that women migrants have access to information and education, including vocational training as well as human rights education, and orientation programs that include language training.
- Governments should ensure that women migrants have access to the highest attainable standard of physical and mental health services. Governments should recognize, respect and affirm women's right to health and their sexual and reproductive health and rights. This should include provision of equitable access to rights-based, comprehensive and integrated sexual and reproductive health information and services, including prevention and treatment of STIs and HIV, choice of full range of contraceptives, maternal and safe abortion services where permitted by law, prevention and early detection and referral for diseases of the reproductive systems, such as breast and cervical cancers, at all stages of the migration cycle. Governments must lift any discriminatory policies based on health status, including HIV status and pregnancy that may affect the rights of women in migration.
- Governments should ensure that policies and regulations reflecting the reality and diversity of women's experiences of migration, recognising and affirming women's autonomy and protecting and fulfilling their rights throughout the migration process, ensuring independent migration status (including marriage migration) that provides the right to work, ensuring access to redress in the destination country (in cases of divorce, sexual violence, widowhood), and for women family members who remain in origin communities, with particular attention given to preventing gender-based violence against women.
- Governments should address policy challenges and discuss initiatives by countries of origin and destination, particularly law enforcement, awareness-raising, and effective legal redress mechanisms, to mitigate pervasive abuses against migrant women.

Legal assistance;
Psychological advice and counseling;
Accompaniment during questioning /
interrogation throughout the investigation or trial;
Financial assistance; and
other necessary assistance.

- Article 17 allows for migrant workers who are victims of sexual and/or physical abuse, forced to do work not stated in the original contract, whose company has gone bankrupt, whose ward has died, who have not received their salaries can receive lodging in shelters run by NGOs while they are awaiting transfer to a new employer.

Gender Equality Law (2005)

- Article 11 (2006) stipulates that a woman cannot be deported if she is pregnant; the decision as to whether a domestic worker is fit to work is up to the employer.

Labour Standards Law

- [Migrant] women working in factories and nursing homes have the right to eight weeks paid maternity leave with full pay

Hong Kong

Employment Ordinance

- Covers migrant domestic workers, providing the same labour rights as nationals, including the right to form

- Governments should foster comprehensive, gender-responsive, and rights-based socioeconomic integration and reintegration of women migrants and returning migrants centred on women’s rights.
- Governments of origin and destination countries should implement human rights-based multilateral agreements and treaties that progressively reduce barriers to women’s movement.
- Governments should never detain women survivors of trafficking or sexual violence or witnesses to these crimes, women with children, nursing mothers, pregnant women, or women with mental health issues for migration-related purposes.
- Where women are detained, governments should proactively seek to implement gender-sensitive alternatives to detention, as long as it is not an alternative form of detention.



Write-shop discussion to formalize recommendations on governance

and join trade unions.

Employment Contract for a Domestic Helper Recruited Abroad

- Standard employment contract for domestic workers

Japan

Act on the Prevention of Spousal Violence and the Protection of Victims – Amendments (2004)

- Article 23 (1) protects women in the context of marriage migration by extending the protection against spousal violence to foreigners.
- Officials charged with the protection of victims of spousal violence, investigations and judicial decisions pertaining to spousal violence shall, in the performance of their duties, take into consideration the psychological and physical conditions of the victims and their environment, etc., respect their human rights regardless of their nationality or disability, etc., and give due consideration to ensuring their safety and protecting their privacy.

Mechanisms to protect the rights and interests of children in migration

‘Children in the context of migration’ includes those children who migrate (unaccompanied or as part of a family unit), children left behind by migrating parents, and undocumented children. Children in migration make up a significant part of the large-scale and complex population movements currently taking place in many parts of the world and the number of children who are on the move is growing dramatically. According to one study, children represent around a quarter of all migrants.

Children are resilient and endowed with fundamental human rights. However, the experience for many

children in migration is characterized by the denial of their fundamental human rights. Many children in host countries inherit the undocumented status of their parents. Children also bear the brunt of the social costs of migration, notably the separation of families. Children who migrate using falsified documents are extremely vulnerable to criminalization, abuse at the state level, trafficking, and forced labour. To provide specific and robust protections to children on the move, governments should:

- Acknowledge the application of the Convention on the Rights of the Child in full to children in the context of migration, including the obligation not to discriminate child to criminalise child migrants on the basis of their migration status.
- Should acknowledge children as rights holders and involve them in the decision making process of migration policies that affect them.
- Develop explicit policies for children in the context of migration. These should involve: investing in communities in 'sending' areas, lowering the economic and social costs of migration and ensuring that migrant children enjoy the legal protection and the rights recognized to all children by the CRC and other international standards, irrespective of their migration status.
- End the criminalization of children in migration and other violations of children's rights based on migration status. Children should never be detained, deported unaccompanied, or separated from their families, irrespective the migration status of their parents.
- Strengthen access to all children's rights in adherence with the CRC, guiding principles and other international human rights instruments, including compulsory education for elementary and secondary school-aged children, access to healthcare, and other fundamental rights.
- Establish rights-based protection networks for children whose parents or guardians migrate, paying particular attention to schools, communities and other protection networks.
- Ensure that children have access to redress, including compensation, for human rights violations in the course of migration.
- Recognizing that children in the context of migration are first and foremost children, governments should develop policies that ensure that children in the context of migration are free to reside in the community while their status is being resolved.
- Ratify and implement ILO C138 Minimum Age Convention (1973) and ILO C182 Worst Forms of Child Labour Convention (1999), and establish programs to remove children in the context of migration from the worst forms of child labour, prevent those at risk of getting into child labour, and reintegrate them into mainstream society, while ensuring children in the context of migration of employable age enjoy their rights in full, including their entitlement to safe and healthy workplace.

Redefinition of the International Mechanisms of Migrants' Rights Protection

Currently, the global discourse on labour migration (and the place of migrants' rights within that discourse) is dominated by the GFMD, leaving little space for the distinct mandate of the ILO and other specialized agencies in protecting and upholding the rights of migrant workers and their families. Substantial contributions to this discourse can be made by other international agencies, particularly the ILO, as 90% of the world's approximately 214 million migrants are migrant workers.

Reaffirming that a rights-based framework should be the primary framework for intergovernmental discourse on migration, the GFMD should incorporate this framework, acknowledging and working within the many, detailed agreements governments have already made with respect to migration, development, human rights, and labour standards

- Governments should ensure that the GFMD and HLD processes use a rights-based framework rather than discuss labour migration from a purely economic perspective. This includes ratifying and/or implementing the following instruments:
 - The International Bill of Rights: Universal Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural Rights (1966), International Covenant on Civil and Political Rights (1966)
 - International Convention on the Rights of All Migrant Workers and Members of their Families (1990)
 - The ILO's core conventions:
 - C87 Freedom of Association and Protection

Promising Practices in government-to-government agreements

India

Emigration Act Section 22 (3)

- Provides a model with minimum standards of MOUs for the protection of Indian migrant workers, including:
 - Period/place of employment
 - Wages and other conditions of service
 - Free food and food allowance provision
 - Free accommodation
 - Provisions for repatriation of the remains of migrants who die abroad
 - Working hours, overtime allowance, other working conditions, leave and social security

- of the Right to Organise Convention (1949)
 - C98 Right to Organise and Collective Bargaining Convention (1949)
 - C29 Forced Labour Convention (1930)
 - C105 Abolition of Forced Labour Convention (1957)
 - C111 Discrimination (Employment and Occupation) Convention (1958)
 - C138 Minimum Age Convention (1973)
 - C182 Worst Forms of Child Labour Convention (1999)
 - Convention on the Elimination of All Forms of Discrimination Against Women (1979)
 - Convention on the Rights of the Child (1989)
- Additional guidance on rights-based approaches to migration should be considered from the following:
 - ILO's Multilateral Framework on the Protection of Migrant Workers
 - UN Declaration on the Right to Development
 - World Conference Against Racism Program of Action
 - Cairo Conference on Population & Development Program of Action
 - 4th World Conference on Women, Beijing Platform of Action
 - Recommendations from the Universal Periodic Review
 - Recommendations from relevant treaty bodies and special procedures
- The GFMD should affirm that the primary concern is the urgent need for international governance to protect the rights of migrant workers and their families when specific governments fail to do so
- Governments should deepen engagement with the relevant treaty bodies, the Supervisory and Special Mechanisms and Procedures of the UN Human Rights Council, and the ILO

- benefits as per local labour laws
- Air passage at the employer's cost
- Mode of settlement of disputes
- Medical benefits
- Travel and transportation expenses
- Conditions for the termination of employment
- Provisions in regard to coverage of special risks, including war
- Provisions in regard to remittances
- Provisions in regard to renewal of contract.

Republic of Korea

Employment Permit System (EPS)

- Government-to-government cooperation: The Korean government signed MOUs with 15 origin countries. Through these MOUs, governments cooperate to reduce the cost of migration and shift the responsibility of recruiting to government agencies, taking private recruiters out of the process.
- Transparency in recruitment and extensive preparation
- Foreign workers receive the following protections under Korean labour law:
 - Working hours
 - Minimum wage
 - Overtime
 - Holidays
 - Occupational accident compensation

Ensure that the GFMD and UNHLD processes are open, transparent, and inclusive

- The HLD must give UN organisations, especially the ILO and OHCHR, key roles in the governance architecture and place migration debates, policies and programs within the UN framework.
- The GFMD should be put under the ambit of the UN so it is more accountable and transparent, and adheres to and builds on the existing human rights frameworks and obligations.
- The Friends of the Forum of the GFMD should commission a continuing independent evaluation of the GFMD process to ensure accountability, transparency, and inclusivity of process and outcomes. This evaluation should include the participation of migrants, trade unions, and diverse civil society groups.
- The HLD and GFMD should be participatory fora of governments, migrants, trade unions, and diverse civil society groups to promote a rights-based approach, including decent work. This forum should address the underlying challenges of migration and development and how these issues can be addressed collectively.
- Credentials for participation in the GFMD and HLD processes for migrants, trade unions, and diverse civil society groups should be open, irrespective of UN accreditation or previous engagement with the UN, freely and without reprisals for participation.
- Governments should set aside funding for migrants, trade unions and diverse civil society groups to participate in the GFMD and HLD processes.
- The GFMD and HLD should prioritize engagement with migrants, trade unions and diverse civil society groups—the primary stakeholders for ensuring migrants’ rights protections—over banks, remittance companies, and corporations.
- The GFMD should implement a transparent monitoring process to assess the impact of the Civil Society Days on the GFMD.

- Counseling to mitigate labour disputes
- Coverage by compulsory national health insurance
- Join trade unions
- Freedom from forced labour
- Collective bargaining
- Freedom from non-discrimination
- The government increases the minimum wage on an annual basis

ROC Taiwan & Philippines

MOU between the Manila Economic and Cultural Office in Taipei and the Taipei Economic and Cultural Office in the Philippines regarding the Special Hiring of Workers (2002)

ROC Taiwan & Indonesia

The MOU empowers employers in Taiwan to bypass the use of recruitment agencies when hiring Filipino workers, thus creating a government-to-government recruitment system in which the exorbitant fees charged by agents within the private recruitment industry are avoided.

ROC Taiwan & Thailand

Bilateral agreement between the Taipei Economic and Cultural office in Thailand and the Thailand Trade and Economic Office in Taipei on Employment of Thai Workers (2003)

ROC Taiwan & Vietnam

Bilateral agreement between the Taipei Economic and Cultural Office in Hanoi and the Vietnam Economic and Cultural Office in Taipei (1999)

Engage in other regional and international processes, putting rights at the centre of all migration and development discussions

- ASEAN governments should prioritize the completion and implementation of the ASEAN Instrument of Protection for migrant workers. Other regional and sub-regional bodies within the Asia-Pacific region should develop a migrant rights instrument to protect and promote the rights of migrants in their regions.
- Governments should develop more inclusive models for participation of migrants, trade unions, and diverse civil society groups and UN agencies in Regional Consultative Processes to leverage the wealth of knowledge and existing promising practices.
- Governments should move away from circular and temporary migration models, because they prevent and restrict the movement of migrant workers and increases their vulnerability to abusive and irregular situations where they can be exploited by recruiters and employers.
- Countries of destination and origin should establish and/or review existing bilateral and multilateral agreements on labour migration, and make such documents public, including provisions that host countries contribute to the integration and reintegration process and ethical recruitment in recognition of the services rendered by the migrant during his/her employment in the host country.
- Origin and destination countries should ensure that bilateral migration agreements, complete with implementing protocols, monitoring mechanisms, and dispute/complaint/redress mechanisms, are developed transparently and on the basis of a participatory approach—including migrants, trade unions, diverse civil society groups, employers, governments, and other social actors.

Philippines & the UAE

Both countries collaborated on a project to test and identify best practices for managing temporary contractual employment in 2009 facilitated by the Abu Dhabi Declaration. The project aimed to identify mechanisms to:

- Protect migrant workers from exploitation;
- Guarantee fair and safe working conditions;
- Guarantee the ability of migrant workers to seek redress; and
- Prepare migrant workers for return and reintegration.

Philippines & the KSA

The two countries have formalized an MOU for the protection of Filipino domestic workers. The MOU includes:

- A mutually acceptable recruitment and deployment system
- Ethical recruitment through licensed recruitment agencies
- Prohibition of making deductions from domestic workers' salaries
- The right to redress according to national laws and regulations
- Minimum employment standards including:
 - Weekly rest days, daily rest periods, paid vacation leave, non-withholding of passports and work permits, free communication, and humane treatment.

Endorsements

The following organizations participated in this two-day Asia Pacific Civil Society Consultation and writeshop and contributed to this outcome document:

- Alliance of Progressive Labor-Hong Kong
- Arab Network – UAE
- Asia Pacific Forum on Women, Law and Development – Thailand
- Asian-Pacific Resource and Research Centre for Women – Malaysia
- Building and Wood Workers International – Malaysia
- Center for Human Rights and Development – Sri Lanka
- Center for Indian Migrant Studies – India
- Center for Migrant Advocacy – Philippines
- DanChurch Aid – India
- Federation of Free Workers – Philippines
- GEFONT Malaysia
- Global Alliance Against Traffic in Women –Thailand
- Global Coalition on Migration
- Hsinchu Catholic Diocese – Taiwan
- Human Rights and Development Foundation – Thailand
- International Detention Coalition – Australia
- Kanlungan Centre Foundation – Philippines
- KavLaOved – Israel
- Law & Trust Society
- Legal Support for Children and Women – Cambodia
- MAP Foundation/Mekong Migration Network – Thailand
- Migrant Forum in Asia – Philippines

- Migrant Forum India
- Migrant Worker Rights Network – Myanmar
- National Domestic Workers Movement – India
- Organization for Migration and Family Development – Philippines
- Pakistan Rural Social Welfare Office – Pakistan
- PMLU Migrants Rights Council -- India
- Pourakhi-Nepal
- Pravasi Nepali Coordination Committee – Nepal
- Public Services International
- Public Services International Asia Pacific Regional Organisation – Philippines
- Public Services Labor Independent Confederation
- Serikat Buruh Migran Indonesia – Indonesia
- Solidarity Center – Sri Lanka
- Solidarity Network with Migrants Japan
- TCWF- India
- Terre des Hommes Netherlands – Philippines
- UNI APRO – Malaysia
- UNI-MLC
- Union Migrant Indonesia (UNIMIG)
- Women’s Rehabilitation Centre – Nepal
- Youth Action Nepal – Nepal

RECOMMENDATIONS FROM THE WEST ASIA REGIONAL CONSULTATION

2-3 July 2013

Amman, Jordan



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.

الاجتماع الاقليمي التشاوري لمنطقة غرب اسيا.
الحوار رفيع المستوى الثاني للأمم المتحدة حول الهجرة و التنمية.
فندق ومركز مؤتمرات لاند مارك عمان
2-3 تموز 2013 . عمان ، الأردن.

في الفترة ما بين 2-3 تموز 2013، التقى ثلاثة واربعون ممثلا من مؤسسات المجتمع المدني، نقابات واتحادات العمال وأكاديميين من منطقة غرب اسيا في عمان، الاردن وذلك من أجل المشاركة في الحلقة النقاشية الاخيرة من أصل ثماني عمليات تشاورية تمت على الصعيد العالمي بهدف التحضير لجلسات الاجتماع القادمة والخاصة بحوار الأمم المتحدة رفيع المستوى حول الهجرة و التنمية. لقد جاء هذا الملتقى بعد المشاورات التحضيرية التي اجرتها لجنة الامم المتحدة الاقتصادية والاجتماعية لغربي اسيا (الاسكوا) حول الهجرة والتنمية، والتي جرت في مصر في الفترة ما بين 2-3 حزيران 2013. وقرارا وتأكيدا على توصيات الاسكوا بوجوب رفع مساهمة منظمات المجتمع المدني في الحوار رفيع المستوى الثاني للأمم المتحدة حول الهجرة والتنمية، فقد كان الهدف من هذا الملتقى هو تمكين منظمات المجتمع المدني الناشطة في مجال حقوق المهاجرين و حمايتهم في الاقليم من اجل تقديم مساهماتهم في اجندة العمل الخمسية ذات النقاط السبعة والتي تم تطويرها من قبل كل من الائتلاف العالمي حول الهجرة واللجنة التوجيهية العالمية لمؤسسات المجتمع المدني والخاصة بالحوار رفيع المستوى للأمم المتحدة حول الهجرة و التنمية، والتي جرى كذلك التصديق عليها من قبل العديد من مؤسسات المجتمع المدني في العالم.

وقد انخرط المجتمعون خلال هذين اليومين في نقاشات معمقة حول كل من النقاط السبعة أدناه: تنظيم قطاع التشغيل، المهاجرون الذين تقطعت بهم السبل، الحقوق العمالية للعمال المهاجرين، الهجرة واجندة التنمية لما بعد 2015 ، حقوق المهاجرات النساء والمصلحة الفضلى لابناءهن، تطبيقات الواعدة في مجال حماية حقوق المهاجرين، واخيرا الحوكمة الدولية لتنظيم آليات هجرة اليد العاملة. تلخص هذه الوثيقة تلك النقاشات الثرية وتوضح التوصيات المتعلقة بالسياسات و التي اتفق المجتمعون على التقدم بها.

تنظيم قطاع التوظيف.

تتطوي عملية التشغيل على تحديات خاصة من اجل التنظيم الفعال، كما أن الثغرات في الممارسات التنظيمية، سواء على مستوى الدول المصدرة أو المستقبلية للمهاجرين، تسبب مخاطر إضافية على العمال المهاجرين. فغالبا ما يتم الانقاص من فعالية الانظمة الحكومية المتعلقة بتنظيم قطاع التوظيف بسبب انعدام آليات الرقابة والتطبيق.

لقد اصبح التشغيل الالكتروني عبر مواقع الكترونية غير مرخصة شائعا بشكل متسارع، حيث غالبا ما يتم تزويد العمال المهاجرين بمعلومات غير دقيقة والتي يتخذ هؤلاء المهاجرون قرار الهجرة على أساسها. على أساسها . وبالإضافة الى وكالات التشغيل الرسمية والتي تقع ضمن نطاق التنظيم الحكومي، فان هنالك لاعبون آخرون يقومون بتشغيل العمال مباشرة مثل : الوسطاء و مقاولوا الباطن وكذلك الكفلاء في غرب اسيا. وكل هؤلاء لا يقومون باعمالهم بطريقة نظامية.

التوصيات :

1. لابد من قيام الحكومات بمراجعة قوانين وأنظمة العمل النافذة، وتعديلها بما يضمن موافقتها مع المعايير والممارسات الدولية، وكذلك معاقبة المخالفين للقوانين.
2. على الدول المرسلة والمستقبلة للعمالة البحث عن خيارات أخرى لمنع استغلال العمال مثل عقد اتفاقيات ثنائية بين الحكومات.
3. على الدول المرسلة والمستقبلة للعمالة العمل بشكل فوري وجماعي من أجل وضع و تطبيق العقود الموحدة للعمال المهاجرين والتي تتواءم مع معايير الأمم المتحدة ومنظمة العمل الدولية.
4. يجب على جميع الحكومات التصديق على اتفاقية منظمة العمل الدولية رقم 181: اتفاقية وكالات التوظيف الخاصة.

المهاجرون الذين تقطعت بهم السبل.

تبنى المجتمعون تعريفا موسعا لمصطلح المهاجرون التقليديون لكي يشمل هؤلاء الذين لا يستطيعون أو لا يرغبون بالعودة الى بلادهم الاصلية، والذين لا يمكنهم تصويب أوضاعهم، و الذين لا تتوفر لديهم الوسائل القانونية للانتقال الى بلد ثالث. مع مراعاة ان هذا الامر لا ينحصر فقط بأولئك الذين تقطعت بهم السبل بسبب النزاعات و حالات الطوارئ والكوارث، إنما يشمل أيضا المهاجرين المستضعفين الذين تقطعت بهم السبل في البلدان المستقبلة لأسباب أخرى مع عدم وجود خيارات لتصويب أوضاعهم.

التوصيات :

1. يجب على الحكومات تطبيق نظام تأشيرات عمل مبنية على فئات الوظائف، وأن تضمن حق تغيير العمل لجميع العمال و ضمان وجود فترات سماح انتقالية بين عقود العمل.
2. يجب على الحكومات تطبيق نظام موحد للمغادرة النهائية للعمال المهاجرين، و ضمان تمكين العمال من الحصول على الوثائق الضرورية لتسهيل مغادرتهم بدون عوائق.
3. يجب ان تطور الحكومات استراتيجيات واضحة، شاملة وقائمة على الحقوق لاجلاء العمال المهاجرين وقت الحاجة، مثل حالات النزاعات، الكوارث والازمات.

الحقوق العمالية للعمال المهاجرين.

إن العديد من العمال المهاجرين في منطقة غرب اسيا، خصوصا عمال المنازل والعمال غير النظاميين، غير مشمولين في قوانين العمل الوطنية . وفي حالات شمول قوانين العمل لهم، فإن انفاذ ومعرفة القوانين المعمول بها وآليات الانصاف تعيق قدرة العامل للتمتع بحماية هذه القوانين، كما تساهم علاقة التبعية بين العامل وصاحب العمل\ الكفيل في استغلال العمال وانتهاك حقوقه

التوصيات المتعلقة بالسياسة.

1. يجب ان تضمن حكومات الدول المرسلة و المستقبلية تشريعات وسياسات وطنية تضمن الحد الأدنى من المعايير الاساسية التي تنادى بها معاهدات الامم المتحدة ومنظمة العمل الدولية لحماية حقوق العمال المهاجرين. كما يجب على الحكومات العمل على مواءمة تشريعاتها وسياساتها واجراءاتها مع المعاهدات الدولية لحقوق الانسان واتفاقيات العمل الدولية.

2. يجب ان تضمن الحكومات حرية العمال بتشكيل تنظيمات لهم، كما ويجب ان تضمن لهؤلاء حقوق المفاوضة الجماعية. ويجب على الحكومات ان تصادق وتنفذ كلا من اتفاقية منظمة العمل الدولية رقم 87 المتعلقة بحرية تكوين الجمعيات وحماية الحق في التنظيم، و رقم 98 المتعلقة الحق في التنظيم والمفاوضة الجماعية.
3. يجب ان تؤسس الحكومات المستقبلية انظمة لحماية الاجور بحيث يمكن للعامل المهاجر الحصول على المساعدة للحصول على اية اجور او مزايا سلبت منه. ومن الممكن تأسيس مثل هذا النظام من خلال كفالات تدفع من قبل اصحاب العمل المستخدمين للعمالة المهاجرة.
4. يجب على الدول المرسله والمستقبله التعاون من لانشاء اليات الحماية الاجتماعية للعمال المهاجرين، ومن ضمنها حقوق التقاعد والتأمين الصحي.
5. يجب ان تضمن الحكومات حق حرية التنقل للعمال المهاجرين، وذلك من خلال ضمان الحق بترك مكان العمل خلال فترات الاستراحة والتواجد في سكنات غير تلك التي يقدمها أصحاب العمل.

أجندة ما بعد 2015 للتنمية وإسهامات المهاجرين.

غالباً ما يتم النظر الى الهجرة العمالية كعنصر محفز للنمو الاقتصادي، وفي الوقت الذي تنحصر النقاشات في الوسائل التي يساهم بها العمال المهاجرون في تنمية بلدانهم الاصلية و المضيفة، ولا يؤخذ بعين الاعتبار الجانب غير الاقتصادي في التنمية، وتغفل خيارات العمال للهجرة لاسباب غير اقتصادية صرفة تتعلق ببنقض فرص العمل اللائق في بلدانهم، و كاستراتيجية تنموية، فإنّ الاعتماد على تحويلات العمال المهاجرين مسالة غير قابلة للديمومة. وذلك لان استقرار وامن البلدان الاصلية له اثر على البلدان المستقبلية للمهاجرين وكذلك على الاقتصاد العالمي. ولذلك فجميع الدول لديها مصلحة في تيسير التنمية المستدامة.

التوصيات .

1. يجب ان يعكس الخطاب العالمي والسياسات المنبثقة عنه بشأن الهجرة و التنمية اهمية الاجور المعيشية الملاءمة بما يسهل التنمية المستدامة والاستقرار والامن العالمي.
2. يجب ان تعمل الحكومات والمؤسسات الدولية على تدقيق اتفاقيات التجارة غير المتوازنة والتي تنتقص من حقوق الانسان والعمال من مواطني دول جنوب الكرة الارضية، بالاضافة الى تحليل العلاقة بين الشروط التجارية المستغلة وهجرة العمال. كما يجب على الدول المرسله والمستقبله للعمالة تطوير سياسات عمل من شأنها الاعلاء من حقوق العمال الانسانية والعمالية فوق مصالح ونفوذ الشركاء التجاريين والشركات متعددة الجنسيات.
3. يجب ان تعمل الحكومات المرسله للمهاجرين على دعم المهاجرين العائدين لادارة مدخراتهم وتحويلاتهم ودعم وتدريب الراغبين ببدء مشروعات استثمارية.

حقوق النساء المهاجرات والمصلحة الفضلى لأطفال المهاجرين.

تتسم أوضاع النساء المهاجرات والاطفال بالخطر والضعف المتزايد اذا ما قورنوا مع المهاجرين الرجال. ان عاملي المنازل، ومعظمهم من النساء، على وجه الخصوص غالباً ما يكن في حالة ضعف كونهن اناثاً ، ولاعتمادهم على اصحاب العمل في الاقامة والوضع النظامي، و لانعزالهم النسبي نظرا لطبيعة العمل المنزلي.

غالبا ما يرث اطفال المهاجرين الوضع القانوني لأبائهم ونقاط الضعف الناتجة عن هذا الوضع، ونظرا للمخاطر التي تتعرض لها النساء المهاجرات وابنائهن، ومن اجل حماية حقوقهم الانسانية والعمالية في دول العمل،فانه لابد من وجود سياسات جندرية تتعامل مع الاحتياجات المحددة للنساء والاطفال.

التوصيات .

1. ا يجب المعاقبة بشدة وبشكل ظاهر للعيان على اساءة المعاملة والعنف الجندري والاتجار بالبشر واستغلال النساء والاطفال ، كما يجب حماية الضحايا ومساعدتهم بشكل كاف من قبل الدول المستقبلية، كما لا يجب تحميل ضحايا الاتجار بالبشر المسؤولية او معاقبتهم بسبب وضع اقامتهم غير القانوني وغير الموثق.
2. على الحكومات الغاء الاحتجاز الاداري، وبشكل خاص احتجاز الاطفال سواء كانوا بصحبة عائلاتهم أم لا.حيث ان العديد من العمال المهاجرين في منطقة غرب اسيا، وبشكل خاص النساء منهم النساء، يصبحون غير موثقين قانونيا بسبب افعال او امتناع عن افعال معينة من قبل كفلائهم . كما يجب وضع اليات خاصة لتصويب أوضاع العمال غير الموثقين بدلا من احتجازهم او تسفيرهم للخارج. وعدم القيام بممارسات التسفير القسري، وخاصة في حالات اللاجئين وطالبي اللجوء. خاصة.
3. غالبا يبقى ما يرث الأطفال وضعية أباءهم غير الموثقين، فعلى الحكومات في هذه الحالات سن نصوص خاصة لتصويب الاوضاع القانونية للأطفال غير الموثقين بشكل سريع وذلك من اجل تمكين هؤلاء الاطفال من الحصول على التعليم.

التطبيقات الواعدة في مجال حماية حقوق المهاجرين.

توجد في منطقة غرب اسيا بعض التغيرات الواعدة في السياسات والتي من الممكن ان تحسن من حماية حقوق المهاجرين. يشمل ذلك على ما يلي:

- نظام حماية الاجور في دولة الامارات العربية المتحدة و الذي يغطي العاملين المهاجرين والذي تم تطويره من قبل البنك المركزي الاماراتي. يوثق النظام مدفوعات الرواتب والاجور للعاملين في القطاع الخاص بما يضمن الدفع المنتظم للاجر المتفق عليه.
- الاتفاقية الثنائية بين الهند وعمان والتي تشتمل على نظام رقابة دقيق لعقود عمال المنازل، والتي من ضمنها متطلب قيام صاحب العمل بايداع كفالة مصرفية لدى البنك تعادل راتب اثني عشر شهرا من اجل تلافي الدفع المتأخر او عدم الدفع للاجر.

التوصيات.

1. يجب على جميع الدول المرسله والمستقبله إبرام اتفاقيات ثنائية تحمي الحقوق الانسانية وحقوق العمل للعمال المهاجرين. ، كما يجب على الحكومات تحسين اليات المراقبة والتنفيذ في الحالات التي توجد فيها مثل هذه الاتفاقيات.
2. يجب على الحكومات الاسترشاد بالاطار متعدد الأطراف الصادر عن منظمة العمل الدولية بشأن هجرة اليد العاملة ، وذلك للمواءمة بين القوانين المحلية والدولية.
3. يجب ان يكون للعمال المهاجرين الحق الكامل باستخدام اليات الانصاف القانوني و التحكيم في حالات النزاع بينهم واصحاب العمل.
4. يجب على الحكومات في الدول المستقبلية اتخاذ خطوات ملموسة لالغاء التمييز في الأجر القائم تبعا للجنسيات.

5. يجب ان تضمن الحكومات المستقبلية حرية الانتقال من صاحب عمل إلى آخر و ان تضمن وجود فترات سماح لاؤلئك العمال الذين تلغى عقودهم قبل انتهاء المدة العقدية.

الحكومة الدولية لآليات تنظيم هجرة اليد العاملة.

سعت المنظمات المعنية بحقوق المهاجرين ومجتمعاتهم الى تعزيز حماية العمال المهاجرين واسرهم منذ أمد طويل الا انه يجب أن يكون هنالك مجال واسع لمؤسسات المجتمع المدني في المناقشات الدولية، الاقليمية، والحكومية الوطنية. حيث تستطيع مؤسسات المجتمع المدني ان تساهم بخبرتها الواسعة وبما لديها من خبرة في نقل المعرفة والمعلومات من القاعدة إلى واتضعي السياسات، ويمكن للحكومات، وذلك من خلال الانخراط التام مع مؤسسات المجتمع المدني، الحصول على معلومات ورؤى معمقة حول اسباب الهجرة العمالية و الوسائل التي من خلالها يمكن اتباع منهج قائم على الحقوق. و تطبيق هذه الوسائل بشكل ناجح.

التوصيات المتعلقة بالسياسة.

1. يجب على الحكومات تعزيز العلاقات مع مؤسسات المجتمع المدني، بحيث من الممكن ان تلعب هذه يتم مشاركة السفارات والبعثات الدبلوماسية الاجنبية بقدر مهم من المعلومات حول مجتمعات المهاجرين من خلال القاعدة الشعبية.
2. يجب على الحكومات ان تصادق وتطبق بشكل عاجل جميع معاهدات حقوق الانسان، وخاصة الاتفاقية الدولية لحماية جميع العمال المهاجرين و اعضاء اسرهم، و العهد الدولي الخاص بالحقوق الاقتصادية و الاجتماعية والثقافية، كما يجب على الحكومات المواءمة بين بين القوانين والسياسات الوطنية وجميع الاتفاقيات ومعاهدات حقوق الانسان.
3. يجب ان تساهم الحكومات في منطقة غرب اسيا في الحوار رفيع المستوى للأمم المتحدة المقبل حول الهجرة و التنمية، وأن تدرس نتائجه بشكل دقيق ، وان تستشير مؤسسات المجتمع المحلي باعتبارها شريكا مهما يمكنه تقديم الخبرة والمقترحات حول الهجرة اثناء هذه المناقشات.
4. ينبغي ان تعطي الحكومات في منطقة غرب أسيا نطاق أوسع لمشاركة فعالة لمؤسسات المجتمع المدني في اللقاءات التشاورية الاقليمية (على سبيل المثال حوار ابو ظبي)، وفي اجتماعات الاسكوا، و في اليات جامعة الدول العربية حول العمال المهاجرين. كما يجب ان تضيف الحكومات العربية كذلك الشبكة العربية حول حقوق المهاجرين و التي تم تاسيسها حديثا باعتبارها مؤسسة مجتمع مدني رسمية و ممثلة في هذه المنتديات.