



International
Labour
Organization



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MIGRATION MANAGEMENT
PROJECT

Importance of Labour Migration
Governance to Trade Unions or
Workers' Organizations



1. Introduction

There are several issues that labour migration governance raises for workers' organizations or trade unions:

- a) the treatment and protection of the rights of migrant workers;
- b) the protection of the interests of national workers who make up the greater part of their membership;
- c) the impact of migration on economic growth and development; and,
- d) what each of these issues imply for the roles and functions of workers' organizations at different levels.

A significant area of work for trade union organizations is advocating for the ratification of ILO migrant workers Conventions (Nos 97 and 143) since they provide the necessary framework to carry out activities to ensure the protection of migrant workers and preventing the deterioration of labour rights of both migrant and national workers.

ILO Conventions Nos 97 and 143 together with ILO Fundamental Conventions offer significant labour protection to migrant workers. The principles of equality of treatment and opportunity that underlie the Conventions are key in trade union campaigns to ensure that migrant workers, both those in a regular and in an irregular situation, can form and join trade unions, hold office in trade unions, and enjoy protection against discrimination on the grounds of their trade union activities as well as on the basis of their national origin, nationality or citizenship.

Regulations and contract provisions that limit the right of migrant workers to organize or to join trade unions violate the fundamental principles of the ILO. The Freedom of Association and Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) prohibit discrimination on the basis of nationality or irregularity of status regarding both the membership in workers' organizations and in establishing a trade

¹ ILO: **Labour migration policy and management: Training modules**. International Migration Programme and Subregional Office for East Asia, Bangkok, International Labour Office, 2005.

² Op. cit.

union. ILO Migrant Workers Recommendation, 1975 (No. 151) clearly states that migrant workers should enjoy effective equality of opportunity regarding the exercise of trade union rights and eligibility for office in trade unions and labour management bodies.²

2. Workers' organisations in both Countries of Origin and Destination

In both countries of origin and destination, workers' organisations could contribute to improving labor migration governance through the following:

- Collaborating, where appropriate, with workers' organizations in foreign countries or cooperating with other agencies / bodies / associations (private or public) to advance a common interest of upholding and protecting the rights of migrant workers.
- Reaching to migrant workers, organizing them into trade unions and representing them;
- Combatting non-discrimination in employment and occupation of migrant workers and promoting good practices;
- Advocating for ratification of international labour standards applicable to migrant workers, especially Conventions No. 97, No. 143, No. 181, No. 189 and No. 190;
- Taking appropriate action to protect the human and labour rights of migrant workers and eliminating all forms of exploitation;
- Advocating for national policies and measures, especially legislation to ensure that migrant workers are given equal treatment with regard to wages and conditions of employment, social security, the right to organize and join trade unions and the other rights provided for in ILO Conventions;
- Ensuring solidarity between foreign and national workers, particularly in terms of preventing a "raise to the bottom approach" and "social dumping" concerning working conditions (e.g. working time, wages, leave entitlements, etc);
- Cooperating with employers to integrate migrant workers in multicultural workplaces;
- Providing them with support to ensure access to justice: grievances procedures, redress of complaints and dispute settlement
- Obtaining access to policy forums to ensure that the view of men and women migrant workers are taken into account;
- Assisting migrant workers in obtaining accurate and comprehensive information about employment opportunities and workers' rights.
- Training and educating employers' organisations in relevant laws.

3. Workers' organisations in Countries of origin

- Developing union capacity to participate effectively in policy dialogue on labour migration;
- Offering services for pre-departure training and country-specific information about conditions of employment, social security and relevant international labour standards;
- Advocating for the use of model employment contracts, based on ILO standards for decent work;
- Advocating for policies and programmes that would lead to the reduction or abolition of fees charged to migrants, including recruitment fees, as provided for in ILO Conventions;
- Establishing links with diaspora communities abroad and participating in the development of appropriate policies and programmes for the socio-economic reintegration of returnee migrant workers;

² Op. cit.

- Providing them support to access to justice (grievances procedures, redress of complaints and dispute settlement) counselling and referral services, particularly for migrant workers who have suffered from abuse and labour exploitation; and
- Establishing special programmes for women migrant workers, especially protection against gender-related discrimination and forced labour.

4. Workers' organisations in Countries of destination

- Establishing a programme for monitoring working conditions of migrant workers and for protecting their rights;
- Helping organize migrant workers or arrange for their membership in trade unions;
- Defending migrants in court litigations involving violation of their human and labour rights;
- Making representation for the repeal of provisions in working contracts or working permits that discourage migrants from joining trade unions;
- Disseminating information to migrants through publicity campaigns, organizing training activities concerning rights in a language they understand and assisting them with legal and paralegal services;
- Discussing the situation of migrant workers with employers' organizations, including migrant workers in collective bargaining agreements and encouraging employers' organizations to provide migrant workers opportunities for skills upgrading;
- Establishing programmes to promote the integration of migrants; and
- Campaigning for non-discriminatory treatment of migrant women and for adequate protection against sexual or other abuses.
- Assisting in regularization/amnesty programmes and ensuring that proper procedures respect human rights and are observed in the deportation of migrant workers in an irregular situation.

THE ITUC MIGRANT WORKERS RECRUITMENT ADVISOR (MRA) IN KENYA

The Migrant Workers Recruitment Advisor (MRA) run by the International Trade Union Confederation (ITUC) and its affiliates is a global platform that provides accurate information on recruitment to both potential migrant workers and migrant workers already living and working in countries of destination. It supports ITUC's advocacy efforts for fair recruitment and help reorient the market towards labour recruiters respecting international human rights. The data collected by the website is also used by ITUC to inform migrant workers about their labour rights, facilitate mediation and compensation for violations of the same and identify protection gaps in law and practice for migrant workers using private employment agencies (PEAs) for work abroad. The MRA website is linked to a violation reporting mechanism handled by the Central Organization of Trade Unions Kenya (COTU-K) with their migrant desk officer.