

## Civil Society Days 2016, 8-9 December, Dhaka, Bangladesh

ACTION PAPER FOR WORKING SESSIONS 1.1 and 1.2<sup>1</sup>:

### Doing Protection of Migrant Workers

***1.1: Promoting rights in recruitment processes through the labour supply chain***

***1.2: Protecting and empowering migrant workers in all global supply chains***

#### 1. Introduction

Migrant workers are a central feature of global supply chains. They work across economic sectors and roles, including in professional trades, offices, services, manual labour and in manufacturing. They assemble our computers, smart phones, clothing and footwear, and our children's toys. Migrants work on construction sites building the world's skyscrapers, in the kitchens and shops of fast food, hotel and shopping chains, and on the plantations that produce our coffee, tea and sugar. They also work on the fishing vessels that catch our fish and shellfish, and the farms that produce the cocoa, nuts and edible oils that make up our snack foods. Migrant workers shape the global economy and consumer industries in diverse and often complex ways.

Supply chain jobs are tied to the global economy. For many migrants they represent an opportunity to generate income, support themselves and their families, and offer a route out of un- or underemployment at home, where access to decent work and social protection may be restricted. Too often, however, the promise of these jobs is unfulfilled. Migrants face low quality, temporary jobs, unsafe working conditions and poor standards of employment, while recruitment and migration pathways are limited by lack of appropriate regulation, restrictive conditions on the rights of workers' and their families, or abuse. The combined pressure of unscrupulous recruiters and employers and inability for workers to enforce their labour rights when they have a precarious or irregular status, frequently results in exploitation and wage theft. In the worst cases, conditions amount to human trafficking and forced labour; such abuses have in recent years been documented in the supply chains of some of the world's largest companies.

This stream of the 2016 GFMD Civil Society Days focuses on the intersection of labour migration, supply chains and corporate accountability. Session 1.1 examines recruitment and migration in "labour supply chains", while Session 1.2 explores employment and working conditions for migrants in global production systems generally. The sessions will evaluate civil society strategies to promote corporate accountability, new legal and regulatory efforts to promote transparency and accountability in supply chains, and employer, business and multi-stakeholder efforts to address these issues. The Sessions will be anchored in the international standards of the International Labour Organisation (ILO), including the 2014 Forced Labour Protocol, which entered into force in November, UN Declarations and the 2011

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<sup>1</sup> This Action Paper has been prepared as input for the 2016 GFMD Civil Society Days by the Verité, Migrant Forum in Asia and PICUM

UN Guiding Principles on Business and Human Rights. They will also account for and complement recent and forthcoming Expert Meetings convened by ILO on the topics of fair recruitment and supply chains.

## 2. Protection of Migrant Workers in the UN 2030 Agenda and the “New York Declaration for Refugees and Migrants”

Goal 8 of the 2030 Agenda promotes sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. Among the 10 targets, two are in particular relevant for the protection and empowerment of migrant workers:

- **Target 8.7:** Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.
- **Target 8.8:** Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

The “[New York Declaration for Refugees and Migrants](#)” that was unanimously adopted by 193 UN Member States during the UN High Level Summit of 19 September 2016 includes numerous commitments for migrant workers, including the following:

- **par. 46:** “We will commit to reducing the costs of labour migration and promote ethical recruitment policies and practices between sending and receiving countries.”
- **par. 48:** “We call upon States that have not done so to consider ratifying, or acceding to, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. We call also on States that have not done so to consider acceding to relevant International Labour Organization conventions, as appropriate.”
- **par. 57:** We will consider facilitating opportunities for safe, orderly, and regular migration, including, as appropriate, employment creation, labour mobility at all skills levels, circular migration, family reunification and education-related opportunities. We will pay particular attention to the application of minimum labour standards for migrant workers regardless of their status, as well as to recruitment and other migration-related costs, remittance flows, transfers of skills and knowledge and the creation of employment opportunities for young people.
- Furthermore, **annex II** includes (**in 3.q**) the: “protection of labour rights and a safe environment for migrant workers and those in precarious employment, protection of women migrant workers in all sectors and promotion of labour mobility, including circular migration” as one of the elements to be included in the Global Compact for safe, orderly and regular migration.

## 3. Existing recommendations from civil society

In 2013, global civil society adopted a 5-year, 8-point Action Plan as its agenda for change and collaboration on migration and development. Two action points are particularly relevant to these sessions on migrants’ rights in recruitment and supply chains:

- **#7:** Identification or creation, and implementation, of effective standards and mechanisms to **regulate the migrant labour recruitment industry** [...] Benchmarks could include a global synthesis of existing recruitment problems and solutions, national or transnational; a global convening of legitimate private recruitment actors; development of a compact on reducing abuses in the recruitment field, etc.
- **#8:** Mechanisms to guarantee **labour rights for migrant workers** equal to the rights of nationals, including the rights to equal pay and working conditions, to form and organise in trade unions, to ensure portability of pensions, and to have paths to citizenship for migrant workers and their families. This recognises the long-term needs of many nations for migrant workers, while guaranteeing human security and rights to those workers to meet economic, demographic and development needs while affirming the States' role to protect the rights of all workers. Benchmarks could include addressing the movement of peoples in the global trade agenda and national progress in complying with the worker-related international conventions, in particular ratification and implementation of the UN Migrant Workers Convention and the ILO Convention on Domestic Workers.

In 2014, civil society set out a series of goals to shape global dialogue on sustainable development and global governance over the 15 years through 2030. The result was **the Stockholm Agenda**, which includes many migrant and migration-related targets, including those relevant to labour:

- Create and preserve **decent work opportunities in countries of origin** which make migration and re-migration an option instead of a necessity and mitigate brain drain;
- Ensure that migrants enjoy **decent working conditions and social protection** that conform to international human rights and labour standards;
- Ensure **portability of skills and benefits**;
- **Reduce costs of labour migration**, with priority to abolishing debt bondage and recruitment charges to migrant workers;
- Prevent and **address human trafficking and violence against migrants**.

Concluding the **2015 GFMD CSD in Istanbul**, civil society set out clear recommendations to governments and the private sector on **migrants' human and labour rights**. To governments:

- Work more seriously together in international, regional and bilateral partnerships to enforce **transparency in international labour recruitment**, and to include civil society directly in these partnerships and negotiations.
- Better **license, regulate and monitor recruitment** actors, and publish data on this;
- Adopt and enforce **legislation that bans recruitment fees charged to workers; combats forced labour, contract substitution and passport retention**; and provides for **dispute settlement, legal redress** and **portable justice** for migrant workers regardless of their status.
- Adequately **resource and train foreign missions** to be able to assist "their" migrant workers better in their protection and empowerment.
- Ensure **decent work in countries of origin and destination**.
- Enforce **core labour standards** including freedom of association, the right to collective bargaining, equal pay and safe working conditions.
- **End visa-regimes and systems that tie the migrant worker to one employer**, as this creates conditions for employers to exploit workers. Instead governments should allow labour market mobility for workers at the national level, while working within regional blocs to gradually implement mobility regimes for all workers.

At the same time, civil society called upon the private sector to:

- Adopt and implement ethical human resources and procurement standards that promote direct hiring.
- Ban recruitment fees charged to workers.

- Respect and work to widen protection of labour rights of workers, including in supply chains.
- Work together with civil society and labour unions on improving and monitoring these standards; government can facilitate this space.

#### 4. Initiatives and actions taken the past years to advance the protection of migrant workers

Over the past several years, a number of promising initiatives and actions have been undertaken by civil society, governments and international organisations. Only a few are presented here. During the sessions, others will be added to this list:

- The civil society [Open Working Group on Labour Migration and Recruitment](#) was established in 2014 to share knowledge and collective advocacy to reform migrant labour practices globally. The campaign priorities include Zero Recruitment Fees and Employer Pays Model, Zero Tolerance for Contract Substitution, Human Rights and transparency in government to government recruitment and promotion of ethical recruitments.
- ILO launch of the [Fair Recruitment Initiative](#) with support of key governments and in partnership with employers, workers and civil society organisations.
- IOM has launched and is currently piloting the [International Recruitment Integrity System \(IRIS\)](#), a voluntary, multi-stakeholder certification system to promote transparency and ethical practice in the recruitment industry.
- ILO adopted a new international instrument, the [2014 Forced Labour Protocol](#), which requires ratifying States, among other things, to protect migrant workers from “possible abuse and fraudulent practices during the recruitment and placement process”.
- In the **UK, the Modern Slavery Act** was adopted in 2015. It includes provisions that require companies with an annual turnover above £36 million to publish an annual statement on the steps taken to address slavery and trafficking in the supply chain.<sup>2</sup> This follows related regulation from the **US State of California** on supply chain transparency, as well as regulation of the recruitment industry. In 2012, President Obama issued an Executive Order on “*Strengthening Protections against Trafficking in Persons in Federal Contracts*”, which bans recruitment fees charged to workers.
- [KnowtheChain](#) is a new civil society partnership that benchmarks corporate practice and provides practical resources for investors and companies. It evaluates companies on the basis of new legal obligations to operate more transparently and responsibly in supply chains, with a focus on forced labour and risks that face migrant workers.

Other existing initiatives and tools include:

- Centro de los Derechos del Migrantes (CDM), [Contratados](#)
- Interfaith Centre on Corporate Responsibility (ICCR), [No-Fees Initiative](#)
- Institute for Human Rights and Business (IHRB), [Dhaka Principles for Migration with Dignity](#)
- ILO, [Fair Recruitment Initiative](#)
- IOM, [International Recruitment Integrity System \(IRIS\)](#)
- [www.knowthechain.org](http://www.knowthechain.org)
- Verité, [Fair Hiring Toolkit](#); [Responsible Sourcing Tool](#)
- [www.recruitmentreform.org](http://www.recruitmentreform.org)

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<sup>2</sup> Note however concurrent provisions in the Immigration Act that make irregular work a criminal offence with possible confiscation of wages, fines and imprisonment.

## 5. Suggestions for recommendations for the 2016 GFMD CSD 2016

The Working Sessions will deepen existing goals, benchmarks and actions such as the ones described above. It is suggested to begin with a focus on the following four areas:

1. Improve **laws and regulations** governing corporate accountability, transparency and due diligence in supply chains, and forced labour associated with labour recruitment and migration.
2. **Empower workers** (with a focus on the unique needs and vulnerabilities of migrants) to organise, advocate and defend their interests individually and collectively in the context of recruitment, migration and employment.
3. Promote **corporate accountability**, robust supply chain due diligence, enhanced transparency and effective grievance mechanisms in recruitment, migration and employment of migrant workers.
4. Strengthen **civil society and multi-stakeholder strategies** to promote and protect the rights of migrants in supply chains.

## 6. Action steps beyond the GFMD

The working sessions will define key actions for civil society and governments at global and regional levels. Recommended actions to be examined during the sessions include:

1. Enhance transparency in recruitment practices, **mapping, monitoring and disclosure** of labour supply chains.
2. **Research and data collection** on recruitment, fee-charging, forced labour and human trafficking in supply chains by key risk sectors
3. **Catalogue, disseminate and promote good practice** in due diligence, grievance mechanisms, access to remedy in supply chains

## 7. Guiding questions for discussion during the Session

### 1) *Recommendations for changes in policies and practices*

What legal, regulatory and enforcement mechanisms are necessary to promote supply chain accountability and transparency, including for recruitment and labour supply chains?

### 2) *Strategies, practices, partnerships and tools*

What strategies have been effective in holding companies to account for recruitment and employment conditions in supply chains, and how can these be replicated and scaled?

### 3) *Actors for success*

What role can multi-stakeholder partnership play in supply chain accountability, and what stakeholders beyond civil society and rights-based groups need to be at the table to ensure success?

### 4) *Actions and strategies*

What strategies can be used to promote empowerment of migrant workers and access to remedy/justice in the supply chain context? What actions does civil society need to undertake, either nationally, regionally or globally?

### 5) *The Global Compact for safe, orderly and regular migration*

How can the Global Compact on Migration help to better facilitate cooperation in labour migration governance and compliance with international labour standards and what other global/regional governance mechanisms need to be improved?