

POLICYBRIEF

May, 2023

Migration and Decent Work: Challenges for the Global South

A synthesis of ideas and solutions presented at a UNU-CPR migration policy roundtable

Key Recommendations:

- Ensure the inclusion, fair and equal treatment of migrant and refugee workers in the labour market, including respect for rights of freedom of association and the right to organize.
- To interrupt the cycle of exploitation of migrant workers, governments should commit to and prioritize the protection of migrants' rights and hold businesses accountable for forced labour.
- Create more regular pathways for migrants in the Global South – to help migrant workers access decent work.
- Ensure better policy coherence between migration and employment policies through social dialogue – to achieve fair labour migration governance and strengthen the sustainability and effectiveness of policies, legislation, and practices.

Introduction

The International Labour Organization (ILO) defines decent work as “productive work for women and men in conditions of freedom, equity, security and human dignity.” In general, work is considered decent when: it pays a fair income; guarantees a secure form of employment and safe working conditions; ensures equal opportunities and treatment for all; includes social protection for workers and their families; offers prospects for personal development and encourages social integration; and ensures workers are free to express their concerns and to organize.¹ Decent work is important for individuals and also for the contribution it can make to delivery of the Sustainable Development Goals (SDGs).²

1 See “Decent Work,” International Labour Organization (ILO), last accessed 1 May 2023, <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>.

2 ILO, *Decent Work and the 2030 Agenda for Sustainable Development* (Geneva: ILO, n.d.). Accessible at: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-lisbon/documents/event/wcms_667247.pdf.

Securing access to decent work continues to be a challenge, including for migrants in the Global South. According to ILO, around 90 per cent of international migration today is bound up in the world of work: an estimated 169 million of the 272 million people living outside their countries of birth or citizenship in 2019 were economically active.³ Although increased labour migration is a feature of contemporary globalization, it often fails to control or take responsibility for its costs and consequences.

A growing proportion of migrants face significant difficulties in accessing decent work in recipient countries, including those migrating between countries of the Global South. This undermines the contribution of migration to the delivery of the SDGs, impedes migrants' integration, and can be associated with human rights violations, and even death.

This policy brief builds on discussions during a UNU-CPR migration policy roundtable, held in New York in 2023, which brought together representatives from the United Nations, Member States, international organizations, and civil society to examine the challenges of ensuring that migrants in the Global South have both the right to work and decent working conditions. The recommendations it advances target Member States and the achievement of SDG 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all).⁴

Key Issues and Priorities

Inclusion of Migrant Workers

Securing the inclusion of migrant workers in labour markets is a persistent challenge, particularly for developing countries in the Global South which are often characterized by high labour informality, unemployment, and wage disparities. Research from Dejusticia⁵ demonstrates that guaranteeing migrants and refugees the fundamental right to work in the Global South is critically important for their socioeconomic integra-

tion, as it allows migrants and refugees to enjoy more dignified living conditions, contribute to the development of their host communities, and build relationships with local populations. Additional research has demonstrated that labour market inclusion also has positive impacts on other indicators of migrant integration, including family reunification, political participation, education, and regularization.⁶

Beyond inclusion in the labour market, however, migrants also require greater access to decent work opportunities and conditions. The ILO has declared the inclusion and integration of migrants and refugees, and their fair and equal treatment in society and the workplace through decent work opportunities, as top priorities for action and core to the organization's mandate. For the International Trade Union Confederation (ITUC),⁷ equality and inclusion of migrants and refugees are fundamental pillars of its call for a 'New Social Contract'.⁸

Both organizations have established initiatives to ensure that recruitment practices nationally and across borders are grounded in labour standards through regular pathways, and help protect migrant workers from abusive employment practices. To help achieve this ILO has established the Fair Recruitment Initiative,⁹ and ITUC the Recruitment Advisor¹⁰ platform.

Wage Theft

The ILO estimates that although migrant workers represent 5 per cent of the global labour force, they account for 15 per cent of forced labour cases worldwide. One of the most common and endemic factors of forced labour is the non-payment of wages, or wage theft. While the Global Compact for Migration¹¹ recognizes that respect for workers' rights and compliance with labour standards are the foundations of decent work, systemic wage theft remains a pervasive feature of the global workforce. According to the Migrant Justice Institute, many workers in the Global South (and Global North) remain

3 ILO, *Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration: A Compendium* (Geneva: ILO, 2021). Accessible at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_832915/lang--en/index.htm.

4 'Migration and Decent Work: Challenges for the Global South' was the second in a series of migration policy roundtables organized by UNU-CPR's Equitable Development and Migration programme. Speakers included Professor Heaven Crawley (moderator, UNU-CPR and MIDEQ Hub), Lucía Ramírez Bolívar (Dejusticia, Colombia), Michelle Leighton (International Labour Organization), Sarah Mehta (Migrant Justice Institute), Paola Simonetti (International Trade Union Confederation), and Felipe González Morales (UN Special Rapporteur on the Human Rights of Migrants). For more information: <https://cpr.unu.edu/events/archive/event/migration-and-decent-work-challenges-for-the-global-south.html>.

5 Lucía Ramírez Bolívar and Jessica Corredor Villamil, *Migration and Decent Work: Challenges for the Global South* (Bogotá: Dejusticia, 2022). Accessible at: <https://www.dejusticia.org/en/publication/migration-and-decent-work-challenges-for-the-global-south/>.

6 See, for example, Overseas Development Institute (ODI) (2018) "Decent work, migration and the 2030 Agenda for Sustainable Development," ODI Briefing Note (London: ODI, 2018). Accessible at: <https://cdn.odi.org/media/documents/12390.pdf>.

7 For more information on ITUC: <https://www.ituc-csi.org/>.

8 For more information on the 'New Social Contract': <https://www.ituc-csi.org/IMG/pdf/5co-final-statement-en.pdf>.

9 For more information on ILO's Fair Recruitment Initiative: <https://www.ilo.org/global/topics/fair-recruitment/fri/lang--en/index.htm>.

10 For more information on ITUC's Recruitment Advisor Platform: <https://www.recruitmentadvisor.org/organization/international-trade-union-confederation-ituc>.

11 United Nations General Assembly, "Resolution 73/195 Global Compact for Safe, Orderly and Regular Migration," United Nations, 11 January 2019, A/RES/73/195. The Global Compact for Safe, Orderly and Regular Migration is the first inter-governmentally negotiated agreement, prepared under the auspices of the United Nations, covering all dimensions of international migration in a holistic and comprehensive manner. For more information visit: <https://www.iom.int/global-compact-migration>.

trapped in exploitative labour markets with limited enforcement of their labour rights.¹² Raising labour violations like wage theft is particularly challenging for migrant workers, however, because doing so means risking both their employment and legal status in the country of employment.

Several factors contribute to the persisting cycle of exploitation of migrant workers, including wage theft: labour regulatory bodies are poorly resourced and rely on vulnerable migrants to bring labour exploitation cases forward; processes for wage recovery are long and costly (with few jurisdictions offering systems where migrants can pursue claims after they have departed a country); and migrants filing claims often face low prospects for justice and wage recovery.

The Importance of Labour Regularization

Decent work and respect for labour rights are closely linked to migrants having access to regular migration status. Research shows that migrant workers in irregular situations - especially women and workers in the informal economy - are more susceptible to forced labour, trafficking, wage theft, and inequality.¹³ This situation is made possible because labour migration governance is unfair and ineffective and policy coherence between migration and employment policies limited.

The design and implementation of regularization programmes are crucial to ensure more regular pathways for migrants in situations of vulnerability. Regularizing irregular migrant workers means that they no longer undercut the labour market (wage depression from underpaid jobs in the informal economy may affect national workers in similar sectors in the formal economy), and ensures the increased integration and well-being of both migrant and national workers. Regularization is also key for changing political narratives around migrant workers and their access to decent work, often seen as threatening local jobs. UN agencies, international organizations, and trade unions can all play a crucial role in advocating for the regularization of migrants, providing evidence on the negative effects of irregular migration and pushing for relevant national legislation.

Recommendations

- 1. Ensure the inclusion and fair and equal treatment of migrant and refugee workers in the labour market, including respect for freedom of association and the right to organize.**

¹² Bassina Farbenblum and Laurie Berg, *Migrant Workers' Access to Justice for Wage Theft: A Global Study of Promising Initiatives* (Sydney: Migrants Justice Institute, 2021). Accessible at: <https://www.migrantjustice.org/publications-list/2021/12/2/migrant-workers-access-to-justice-for-wage-theft-a-global-study-of-promising-initiatives>.

¹³ International Labour Organization, 2021, *Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration: A Compendium* (Geneva: ILO, 2021). Accessible at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_832915/lang-en/index.htm.

¹⁴ "2021 ITUC Global Rights Index: COVID-19 pandemic puts spotlight on workers' rights," ITUC, 30 June 2021 <https://www.ituc-csi.org/2021-global-rights-index>.

¹⁵ More at <https://www.globalrightsindex.org/en/2022>.

Recipient countries in the Global South should include migrant and refugee workers in the labour market and ensure their fair and equal treatment by providing access to decent work opportunities and conditions. For example, governments should broaden the scope of social policy programmes to include migrants and refugees in the design of local plans for community integration, providing better access to labour inclusion programmes. Trade unions and international organizations should continue to advocate for migrants' right to fair recruitment and decent work, holding Member States to account on their commitments to the Global Compact for Migration.

Trade unions, international organizations and civil society organizations should continue to advocate for the respect and implementation of the right of freedom of association and right to organize. According to ITUC's 2021 Global Rights Index,¹⁴ 32 countries had adopted legislation prohibiting migrants from establishing, joining, or holding office in a trade union, and denying them full rights to engage in union activities. Others excluded sectors dominated by migrant workers, such as domestic work, agriculture, and construction from legal protections for union activities.¹⁵ Denying the right to form and join trade unions means migrant workers remain excluded from labour protection. ILO Conventions 97 and 143 on migrant workers, guidance, and tools can provide effective support for governments in the Global South to improve fairness and protection of migrant workers' rights.

- 2. To interrupt the cycle of exploitation resulting from wage theft, governments should commit to and prioritize the protection of migrants' rights and hold businesses accountable for forced labour.**

Countering wage theft requires reforms to national labour and migration systems, which will need meaningful political support and investment in the rights of non-citizen workers, as well as transnational collaboration. Governments should simplify processes to expedite and streamline wage theft claims, for example, by offering migrants short-term permission to stay and work in a country to pursue claims, providing opportunities to prepare wage claims pre-departure, through advance testimony, and exploring the use of technology to enable migrants to participate in labour cases after leaving the country of employment. Enabling migrant workers to join

or establish unions both by law and in practice is also crucial to empower migrant workers against wage theft and to seek remedies. Further, while private sector engagement in migration governance strategies is important, holding businesses accountable for violations of migrant workers' rights is crucial for countering exploitation, forced labour, and wage theft. One potential mechanism for holding businesses to account is by expanding liability up the supply chain so that businesses in the best position to pay will do so for labour from which they have benefitted.

3. Create more regular pathways for migrants in the Global South.

United Nations agencies, international organizations, and trade unions can play a significant role in promoting the regularization of migrants, including through advocacy efforts, supporting national legislation on regularization, and providing guidance on bilateral dialogues for the creation of regular pathways. Bilateral labour migration agreements (BLMAs) have become important tools for facilitating labour migration governance, yet require monitoring and enforcement mechanisms for effective implementation. BLMAs, in particular those for temporary labour migration, should not be used to 'import' cheap labour rendered exploitable due to limits imposed on migrant workers' rights.

The Thematic Working Group of the United Nations Network on Migration, co-led by the ILO and the International Office for Migration, produced a *Guidance on Bilateral Labour Migration Agreements (2022)*,¹⁶ which provides crucial support to countries of origin and

destination for the creation of rights-based and gender-responsive agreements and regular pathways to help migrant workers access decent work. This guidance could provide similar rights-based agreements or pathways for migrant workers, specifically in the Global South. Governments should pay particular attention to the challenges migrants and refugees face beyond regularization, including discrimination, xenophobia, and social exclusion, among others, and what policies can do to address these challenges.

4. Ensure better policy coherence between migration and employment policies through social dialogue.

The challenges facing migrant workers require a comprehensive response that ensures coherence between migration and employment policies. Policy coherence can help integrate migrants into the global labour market and improve the fairness and protection of migrant workers' rights. For this, the ILO finds that social dialogue between labour authorities and social partners, including employers' and workers' organizations, is critical for achieving fair labour migration governance and can strengthen the sustainability and effectiveness of policies, legislation, and practices. Specifically, governments should include the voices of trade unions - and enable migrant worker participation therein - when designing labour and migration policies. But ensuring labour and migration policy frameworks (such as the Global Compact for Migration) are translated into practice, specifically in deeply politicized contexts, remains an enduring challenge, including in the Global South.

16 United Nations Network on Migration, *Guidance on Bilateral Labour Migration Agreements (2022)*. Accessible at: https://migrationnetwork.un.org/sites/g/files/tmzbd1416/files/resources_files/blma_guidance_final.pdf.

About the UNU-CPR Migration Policy Roundtable Series: The UNU-CPR Migration Policy Roundtable Series brings together UN agencies, Member States, international and civil society organizations and academics to explore the evidence in relation to key policy issues relating to equitable development and migration. The events are held in a hybrid format, alternating between New York and Geneva. For more information: <https://cpr.unu.edu/research/researchareas/equitable-development#overview>.

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