

UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)

**Day of General Discussion
on workplace exploitation and workplace protection commemorating the tenth anniversary of the entry into force of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families**

7 April 2014 from 3:00 to 6:00 pm

OHCHR, Palais Wilson, First Floor Conference Room, Geneva

Keynote address

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Distinguished members of the Committee, Excellencies, Ladies and Gentlemen,

Thank you for the invitation to speak to you during this Day of Discussion on workplace exploitation and workplace protection of migrant workers. On behalf of the ILO, it is a privilege for me to give the keynote address at such an auspicious time as the Tenth Anniversary of the entry into force of the UN Convention on Migrant Workers. The ILO derives important benefits from the strong connection to the work of the Committee. Our shared values on labour migration inform the work we do as Chair of the Global Migration Group (GMG) this year, and strengthen our endeavours with the GMG's other 15 international agencies. It is an even more auspicious occasion because this year represents the 65th anniversary of the ILO's Migration for Employment Convention (Revised), 1949 (No. 97).

I can say that we have made enormous strides in our efforts. There are important synergies between the standards adopted by the ILO's International Labour Conference and the UN human rights system. The ILO has been committed to protecting migrant workers since its inception, beginning with the 1919 ILO Constitution committing the Organization to protect "the interests of workers when employed in countries other than their own."

The complementarity of ILO's Convention No. 97 and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and their accompanying Recommendations (Nos. 86 and 151) with the 1990 UN Convention has led to ILO's consultative status with the Committee on Migrant Workers.

Our work together has enhanced the exchange of good practice and ensured consistency in our approaches. We particularly welcomed the opportunity to provide input on the two

General Comments that the Committee has adopted to date: General Comment No. 1 on migrant domestic workers – adopted one year before the International Labour Conference adopted the Domestic Workers Convention, 2011 (No. 189), and General Comment No. 2 on the protection of migrant workers in an irregular situation and members of their families.

I can also reflect that it was most encouraging that last fall, at the UN High-level Dialogue on International Migration and Development (HLD), states recognized the important contributions of migrant workers to development. Even more emboldening was their historic adoption of a Declaration which emphasized the need to effectively protect the human rights of migrants, and to respect and promote international labour standards.

This call for improving the development outcomes of not just countries of origin and destination, but of the migrant workers themselves, and to foster a migrant-centred approach to development presents us with the possibility for a real turning point in how we perceive, respond to and govern labour migration. This could not come too soon. We need a new paradigm, now more than ever.

We hear of reports almost daily about the exploitation and abuse of migrant workers: whether of young domestic migrant women latched to abusive employers from whom there is no hope of escape; or young men forced to take jobs in dangerous conditions such as at deadly construction sites, unable to leave because their employers hold their wages and passports; to those migrants working in debt bondage because of a chain of nefarious recruiters who lead them from the village, to the city, and across borders to slums or factories, from which they may never be able to return home.

Women who represent half of the 232 million migrants are increasingly migrating on their own for employment. They represent 80 per cent of the domestic workers globally, but remain particularly at risk in an invisible sector.

The truth is, migrant workers in all sectors of low and middle-skilled work remain among the most vulnerable workers to abuse. They often receive lower wages than native workers, and can be forced to endure unacceptable working conditions and poor housing, with social protection often denied in law or practice. This increases the risk of poverty on their return home, especially if they suffer employment injuries. Discrimination and xenophobia are on the rise, and still so few migrants have access to remedies for labour law violations.

We think of our youth, the under 30s, as the next generation of global development. But so often our young people are unable to find jobs at home and turn to migration as a means to get ahead or to survive. Among all migrants, this is the cohort that is the most vulnerable to exploitation in the workplace, and outside it. ILO's most recent report shows youth unemployment is 4 times the rate of others and they represent 40 per cent of the global

unemployed; this is even more staggering for younger migrants. Some face even more exploitive risks: of the 11 million children crossing borders, too many end up in child or bonded labour.

Protecting our youth and young migrants in the workplace is likely to have a direct impact on development: (1) youth are more likely to move across borders temporarily, many average less than a year; (2) they are more susceptible to taking work in the informal economy; and (3) the longer young people are unemployed, the more this will harm their future employment opportunities and their vulnerability to deskilling—they may be stuck in low-skilled jobs for most of their lives. Is this how we imagine the future of development? Can labour migration policies do a better job of ensuring training and skills building so when young people go home, they bring better opportunities of prosperity, rather than tales of woe?

The fact is, these issues are not yet central to migration policy in most countries. Borders and security tend to dominate the dialogue rather than sound evidence of labour market needs. The politics of migration can be divisive, as when public perceptions on migrant workers are that they harm rather than help societies. These perceptions are too often quite far-off from the realities that migrants bring significant benefits to their host countries. Their labour helps business to build economic growth, they have high productivity, innovation and entrepreneurship, and their cultural diversity expands our links to what is now a highly globalized world.

Public *misperception* remains a serious challenge to promoting fundamental human rights, such as the right to non-discrimination and equality of treatment. In a project that ILO has conducted in Asia, which aims to increase awareness of the contributions that migrant workers make to the host society, we found that approximately 80 per cent of the respondents surveyed in four destination countries recognized the need for migrant workers to fill labour shortages, but less than 60 per cent in three of the countries thought migrant workers in a regular situation should be treated equally with national workers. In several of the countries, approximately 80 per cent surveyed felt that migrant workers in an irregular situation could not expect to have any rights at work.¹ These trends are seriously disturbing.

Those promoting policies that would trade the number of migrant workers for less protection and fewer rights, that is by eroding away workers' rights and standards, or by valuing migrant workers based on their utility to the economy, such as commodities, are particularly unhelpful. Degrading the rule of law will not build the public trust in public policy solutions. Growth and inclusive global development needs precisely the opposite

¹ For more information, see http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/presentation/wcms_159851.pdf.

approach. Abiding by international minimum standards is essential if we are to ensure that all people have access to decent work and a chance at development, and it is essential to guaranteeing a level-playing field to global competition in the business world.

To do this, we will need to shift toward designing evidence-based migration policies that have more coherence with employment policies: to focus more on data and dialogue that brings input from workers and employers, as well as other stakeholders, and to strive for zero tolerance of exploitation practices that are some of the most abusive to workers in the workplace.

There are at least three pillars that can make this work.

1. **Standards will continue to be critical.** Human rights and labour standards cannot be replaced by weak oversight mechanisms or self-regulation. In addition to ILO's migrant-specific conventions, ILO's eight core fundamental conventions are also human rights instruments that address such challenges as forced labour, child labour, discrimination in employment and occupation, and freedom of association and collective bargaining. These lay important foundations for protecting migrant workers. Just recently, for example, the ILO Governing Body addressed exploitative practices against migrant workers in Qatar, who comprise 93 per cent of that country's labour force. The Governing Body reached conclusions and made recommendations to the Government of Qatar on allegations of violations of freedom of association and the non-observation of the ILO Forced Labour Convention, No. 29 (1930), which Qatar has ratified.²

ILO has also adopted a Multilateral Framework on Labour Migration based on international human rights and labour standards containing principles, guidelines and best practices on a whole range of labour migration issues. At the ILO Tripartite Technical Meeting on Labour Migration (TTMLM) last November, our constituents reinforced the need to promote international labour standards, and to work more closely in partnership with GMG agencies and other stakeholders.³ We will develop more focused strategies, considering particularly the high risk of abuse in sectors with high proportions of migrant workers:⁴ we have seen that mainly low-skilled sectors, such as those in agriculture, construction, domestic work and fisheries, often generate exploitative working conditions.

² ILO docs. GB.320/INS/12 at pp. 225-238 and GB.320/INS/14/8.

³ TTMLM Conclusions, para. 5(i).

⁴ TTMLM Conclusions, para. 5(vi).

ILO's efforts on migrant domestic workers globally, and its work in for example the Thai fishing sector,⁵ demonstrates that considerable headway can be made to reduce abusive practices through such a sectoral focus. This focus can also allow us to address some of the serious challenges of labour inspection and access to justice for migrant workers.

Two new projects to strengthen policy and standards are worth mentioning.

Temporary labour migration schemes and bilateral agreements have expanded significantly across the globe. Yet, their implementation of protective standards has by and large been fairly weak. In partnership with KNOMAD – the World Bank's Global Knowledge Partnership on Migration and Development— we are mapping bilateral agreements in a number of key migration corridors, with a view to identifying good practice guidance. The use of model bilateral agreements, such as that identified in the Annex to ILO Recommendation No. 86, can make a difference.

The recruitment industry around migrant workers is also an area that has exploded in recent years – with little guidance. We are undertaking a Fair Recruitment Initiative to improve guidance and mechanisms for oversight of recruitment agencies, and to help reduce the violation of international standards, including those contained in the ILO's Private Employment Agencies Convention, 1997 (No. 181).

2. **Good data and labour market information systems are essential to protecting migrant workers.** We have initiated efforts to provide more data on the links between migrant workers protection and development. We are testing out a new methodology that will examine the working conditions and wages of migrant workers moving under temporary migration schemes. We have adopted a new methodology to establish a global estimate of migrant domestic workers, and launched a global campaign to improve protection across 5 major migration corridors.
3. **Inclusive social dialogue can improve policy coherence:** Labour ministries, trade unions, employers' organizations and other stakeholders play a vital role in addressing workplace exploitation. Their engagement in migration policy dialogues and those around bilateral agreements can ensure that migration policies incorporate labour market needs, while not diminishing standards for protection of migrant workers.

Trade unions are playing a larger role, for example, by forging agreements across borders to extend protection to migrant workers. This is an important step given

⁵ See http://www.ilo.org/asia/whatwedo/publications/WCMS_218101/lang--en/index.htm.

that low-skilled sectors of the economy attract large number of migrant workers who are in an irregular situation.

We will soon be examining the best practices for social partners to better engage in labour migration policies, with pilot activities beginning in Asia and Latin America.

As Chair of the Global Migration Group (GMG), we are striving to ensure that migrant workers and labour migration find their rightful place in global discussions on development. We are engaging in the post-2015 development agenda debates to provide analysis on how policy makes a difference in *how* migration contributes to development.

We are also in the GMG moving forward in very concrete ways, designing targets that include migration for the new focal areas evolving under the post-2015 development goals, and with the Office of the UN High Commissioner for Human Rights, UNICEF and Migrant Forum in Asia on the design of human rights indicators for migrants and migrant workers that include decent work. The ILO supports the GMG's more regular engagement with governments on these issues; and for the global debates to be more inclusive of trade unions and employers as well as wider civil society.

In addressing the Coordination Meeting on International Migration in February of this year, the ILO's Director-General, Guy Ryder, underscored that stronger and smarter cooperative labour migration governance respectful of the rights of migrant workers is "not beyond the capacities of the global community".⁶ I share his hope.

Evidence-based policy, supported by fundamental rights and international labour standards, can make a difference in fostering strategies that protect migrant workers inside *and* across borders.

ILO welcomes our engagement with the Committee and other partners in promoting more coherent and effective cooperation to eliminate exploitation in the workplace.

Thank you.

⁶ ILO DG Guy Ryder, Video-message, 21 February 2014.