

# Organising for Justice

## Trade Union Actions in Defence of the Human and Labour Rights of All Migrants



The Labour Movement's Report to the First Global Review  
of the UN Global Compact on Migration

May 2022

The report provides examples of the work carried out by the Global Unions, illustrating the vital role of the labour movement in defending and promoting the fundamental human and labour rights of all migrants, regardless of status. It gives visibility to a wide range of actions at local, national, regional and global levels that promote the objectives of the UN Global Compact on Migration. Throughout the world, trade unions are part of a global network, organising and empowering migrant workers and carrying out advocacy to promote their rights, so as to ensure that human rights, decent work, and social justice remain as pillars of the GCM implementation strategy.

### **Council of Global Unions**

The Council of Global Unions (CGU) represents more than 200 million workers from across the International Trade Union Confederation (ITUC), the Trade Union Advisory Committee to the OECD (TUAC) and the Global Union Federations comprising Building and Wood Workers' International (BWI), Education International (EI), International Federation of Journalists (IFJ), International Arts and Entertainment Alliance (IEAE), IndustriALL Global Union, International Transport Workers' Federation (ITF), International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Union (IUF), Public Services International (PSI) and UNI Global Union (UNI).

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## Trade Union Actions in Defence of the Human and Labour Rights of All Migrants

### Introduction

The Council of Global Unions<sup>1</sup> (CGU) reaffirms its support to fulfilling the objectives, commitments and actions outlined in the Global Compact for Safe, Orderly and Regular Migration (GCM). Their aim is to ensure that migration policies at national, regional and global levels uphold the Fundamental Principles and Rights at Work as set out in the ILO's Decent Work agenda, which all Member States have an obligation to uphold and so contribute to the realisation of the SDGs. The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Conventions on Migrant Workers (ILO C97 and C143), among others, provide the comprehensive and practicable framework for the development of Member States' migration policies.

Trade unions have been actively involved in the inter-governmental processes on migration from the inception of the work to elaborate the GCM from 2008 onwards. The CGU issued written and oral statements to the Global Forum on Migration and Development, challenging 'a narrow focus on temporary and circular migration to fill labour market shortages in receiving countries' and calling for a comprehensive approach which places migrant workers and their well-being at the centre of the policy paradigm, guarantees their fundamental human and trade union rights, and accords them voice and representation through trade unions.<sup>2</sup> Temporary or circular migration models that limit the duration of work and tie workers to a single employer have a chilling effect on any practical possibility to organise or become active in trade unions. In this way, "the surge of temporary workers has contributed to a general erosion of workers' ability to exercise their rights, to join trade unions and bargain collectively with their employers." The CGU has raised concerns about language in the GCM which fails to provide full guarantees of access to services, justice and labour rights for migrants in irregular status.<sup>3</sup> Differential treatment contravenes the universality of human rights and the ILO's Decent Work Agenda.<sup>4</sup> Furthermore, the GCM fails to recognise the importance of a separation of functions between immigration enforcement and access to public services and justice, which further exposes irregular migrant workers to abuse and exploitation.

Economies and societies are only as strong as their most vulnerable. COVID-19 has exposed the pre-existing fragilities and has deepened structural inequalities, across gender, class and racial lines. In line with the draft Progress Declaration, the CGU recognises the vital role of migrant workers, in responding to the COVID-19 pandemic. On the other hand, it has strongly denounced the cruel inequities of the global labour market, with millions of migrant workers forced to work without adequate protections, while others were suddenly left stranded, with no jobs, no income and either quarantined and without the right to

1 The Council of Global Unions (CGU) represents more than 200 million workers from across the International Trade Union Confederation (ITUC), the Trade Union Advisory Committee to the OECD (TUAC) and the Global Union Federations comprising Building and Wood Workers' International (BWI), Education International (EI), International Federation of Journalists (IFJ), International Arts and Entertainment Alliance (IEAE), IndustriALL Global Union, International Transport Workers' Federation (ITF), International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Union (IUF), Public Services International (PSI) and UNI Global Union (UNI).

2 Council of Global Unions "Constructing an architecture of protection of human and trade union rights for migrant workers and their families" Global Unions Statement to the 2nd Global Forum on Migration and Development, Manila Philippines, 27-30 October 2008

3 Council of Global Unions 'Statement on UN Global Compact Concluded' 13 July 2018

4 Council of Global Unions 'Statement to the 4th Global Forum on Migration and Development', Puerto Vallarta, 8-9 November 2010

return home or facing perilous return journeys. Migrant workers suffered from increased risk of COVID-19 infection, restricted or no access to health services, or vaccines when they became available. They were largely unable to access social protection or government assistance programmes where they existed and vulnerable children were unable to access education.

Trade unions highlighted the lack of protection and multiple risks facing migrant workers and called on governments and employers to ensure that information related to COVID-19 was available in multiple languages, and testing and health services were made available to all. The Building and Woodworkers' International (BWI) drew particular attention to the dire situation in the Gulf Cooperation Council countries and to Central Asia and Russia, where the overcrowded and unhygienic conditions of accommodation resulted in high infection rates among migrant construction workers. In some instances, workers were placed in quarantine in camps with little or no financial assistance or basic necessities. It was often trade unions that stepped up to help, providing food parcels, medicines, and carrying out community health information training. For example, unions affiliated to Public Services International (PSI) in Algeria, Jordan and Tunisia conducted humanitarian actions and organised community outreach clinics, to provide personal protection equipment (PPE) to migrants and information on infection prevention and control.<sup>5</sup> Education unions, members of Education International, reached out to vulnerable students to ensure continuity of education during the school closures.<sup>6</sup> The BWI supported over 50 Indian construction workers who were summarily dismissed and left without funds to repatriate from Serbia.<sup>7</sup> The International Domestic Workers' Federation (IDWF) supported Kenyan domestic workers in Lebanon who were struggling for survival with no funds to return home and with no support from the Lebanese government or Kenyan Consulate.<sup>8</sup> The cost to society of excluding migrants from social protection and health care was made too clear during the pandemic. Unions have renewed calls for governments to ratify the ILO Conventions on Migrant Workers and the UN Convention on the Rights of all Migrant Workers and their Families.<sup>9</sup>

The devastation of the pandemic has been compounded by conflict, war, and the climate crisis. The CGU shares the draft Progress Declaration concern for the impact of economic crises and climate-related natural disasters on international migration and migrant workers and its expression of solidarity with those who are forced to flee their homes because of war and internal conflicts. The response and support offered to Ukrainian refugees in Europe, where countries have rapidly opened up special residence and work permits, emergency accommodation, access to social security, health care, education and other services is a model of practical solidarity in action which should be applied without discrimination to all those fleeing war, conflict and climate-related disasters in all parts of the world.

Over the last four years, the global unions have continued to carry out advocacy and practical actions to organise, service and promote the rights of migrant workers. The International Trade Union Confederation (ITUC), together with PSI and BWI, are active members of the UN Network on Migration Working Group on Bilateral Labour Migration Agreements (BLMAs), chaired by the ILO and IOM. The work included the development of a guidance framework for BLMAs and trade unions put forward proposals to ensure that the document is gender-responsive, rights-based, fair and ethical. PSI is also a member of the Technical Experts Group developing WHO guidance on BLMAs in the health sector. A future challenge is to strengthen the regulation and ethical recruitment of the home-care sector. PSI is a member of the UN Network on Migration Working Group on Access to Services, working with the Co-Chairs, WHO and UN Habitat, and other WG members in furthering Objective 15 of the GCM. Trade unions have also commissioned a range of research studies, for example on teacher migration and mobility,<sup>10</sup> participatory surveys on health workers' migration and the impact of COVID-19 on the migrant health workforce, and on the BLMAs signed by the Gulf Cooperation Council states. Many of these studies highlight how vulnerable migrant workers,

5 See PSI Statement to the UN GCM Online Review in the Arab Region 24-25 February 2021

6 See EI COVID-19 hub: <https://www.ei-ie.org/en/dossier/1302:covid-19-education-unions-stand-united-and-mobilise>

7 See BWI 24.08.2020: <https://www.bwint.org/cms/bwi-unions-bring-relief-to-stranded-indian-migrant-workers-in-serbia-1990>

8 See IDWF 12.08.2020: <https://idwfed.org/en/updates/lebanon-idwf-statement-in-support-of-the-kenyan-migrant-domestic-workers2019-sit-in-action-for-repatriation-and-free-of-abuses>

9 See for example IUF 17.06.2020 <https://www.iuf.org/news/its-time-to-ratify-and-implement-the-migrant-workers-convention/>

10 <https://download.ei-ie.org/Docs/WebDepot/TeacherMigrationStudy.pdf>

in particular women workers, are to abuse and exploitation and provide practical recommendations to address these issues.

## Council of Global Unions - members in action on the implementation of the GCM

This report provides some examples of the work carried out by CGU member organisations to illustrate the vital role of trade unions to defend and promote the fundamental human and labour rights of all migrants, regardless of status. It gives visibility to a wide range of actions at local, national, regional and global levels that promote the objectives of the GCM. It reviews the work of trade unions under eight of the GCM objectives, with a particular focus on Objective 6 on 'Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work'. Throughout the world, trade unions are part of a global network, organising and empowering migrant workers and carrying out advocacy to promote their rights so as to ensure that decent work is indeed a pillar of the GCM implementation strategy.



### **Objective 2: Minimise the adverse drivers and structural factors that compel people to leave their country of origin**

The GCM commits to minimising the drivers that compel people to leave their country of origin and to fully implement the 2030 Agenda for Sustainable Development. The CGU argued consistently that the approach to labour migration should focus on the human rights of workers and not be perceived as a strategy or enabler for sustainable development. While recognising the right of every worker to migrate, the CGU argue that migrants should have the choice to stay at home where full employment, decent work and gender-responsive universal social protection and access to quality public services and education is guaranteed; or alternatively have a path to citizenship in a new country of their destination.<sup>11</sup> Furthermore, increasingly large numbers of migrants are in fact forcibly displaced persons, driven to leave their homes by conflict, ethnic displacement, extreme poverty or by climate impacts. The climate crisis is steadily emerging as a key driver of population displacement as well as cross-border migration.<sup>12</sup>

The COVID-19 pandemic highlighted the largely invisible yet essential role of migrant workers, in health, care and other front-line services, the majority of whom are women, often working in precarious conditions and with little access to social protection. The CGU urges governments to invest in human-centred development models and quality public services that provide universal health coverage, social justice and decent work for all. Recovery plans should be aligned with the Paris Agreement, the UN SDGs and ILO labour standards, and developed through social dialogue. Governments need to invest in decent and climate-friendly jobs based on a just transition, underpinned by minimum living wages and freedom of association and the right to collective bargaining, with the fiscal space to develop resilient universal social protection systems and inclusive quality public services, including education.

In order to raise awareness and take practical action on the climate emergency, the ITUC has led calls for a Just Transition and social dialogue to be integrated into national climate plans as part of its demands for a new social contract,<sup>13</sup> and BWI has been a strong advocate for a Green Economic Recovery, with a focus on a transition to a greener and cleaner economy.<sup>14</sup> The EI has an on-going campaign on climate change education 'Teach for the Planet', with the aim to ensure that climate education becomes as fundamental

11 Resolution on Peace and Democracy: Building Workers' Power, 3rd ITUC World Congress, 18-23 May 2014, Berlin, pp. 10-11

12 Catherine Tactaquin 'Climate crisis heightens inequalities, drives precarious migration' Spotlight Report on Global Migration 2022, published by Global Coalition on Migration and Friedrich-Ebert-Stiftung

13 See 'Governments failure to live up to Paris Agreement...' <https://www.ituc-csi.org/governments-fail-paris-agreement> 21.04.21

14 BWI@Work: 'Trade Union Responses to the COVID-19 Pandemic' March 2021 available at <https://www.bwint.org/cms/bwi-releases-global-covid-19-report-pushes-for-a-5-point-recovery-agenda-2237>

as teaching reading and writing.<sup>15</sup> The PSI has highlighted the impact of the three 'Cs': Covid, Conflicts and the Climate Crisis and the critical role of front-line public service workers. It considers that core adaptation strategies must first and foremost be about allowing people to stay, to adapt and build resilience and that investing in public services and education systems, early warning systems and the necessary infrastructure, allows societies, displaced communities and host communities to build the necessary resilience to allow them to pursue sustainable development.<sup>16</sup> Within this framework, relocation should only be viewed as a mechanism of last resort and be carried out with full respect for the human rights of those affected, and should not be a preferred adaptation strategy. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Union (IUF) has published a guide to tackling the climate crisis in intensive livestock production<sup>17</sup> and the IDWF has organised events on the climate crisis, migration and gender justice as many domestic workers come from rural areas affected by drought, water pollution and other climate impacts.<sup>18</sup>



### Objective 3: Enhance availability and flexibility of pathways for regular migration

Trade unions advocate that States should commit to substantially scaling up access to regular migration pathways that ensure full workers' rights, facilitate family reunification and provide options for permanent residence. They criticise the present trend to expand temporary or circular migration schemes, many of which are abusive and exploitative.

They have called for States to open opportunities for irregular migrants to regularise their status, and to take much stronger action to prevent the exploitation of undocumented workers and trafficking of persons for forced labour.

While trade unions have criticised many circular and temporary migration programmes for their lack of transparency, monitoring mechanism or consultation with social partners in sending and destination countries,<sup>19</sup> they have welcomed the recent publication of the UN Network on Migration Global Guidance on Bilateral Labour Migration. The guidance, produced by a multi-stakeholder thematic working group including ITUC, BWI and PSI, shows how social dialogue, with trade unions and employers and other relevant stakeholders, can strengthen the development, implementation and monitoring of these agreements. The guidance places human rights and international labour standards at its core and includes provisions on access to justice, prevention of violence and harassment, as well as freedom of movement and the right to family reunification. The aim of the guidance is to promote fair and ethical recruitment, clear procedures for visas, residence and employment permits, and to ensure respect for the human and labour rights of migrants in irregular situations. It includes clauses on occupational safety and health, social protection, employment contracts and wage protection and a governance structure to monitor and enforce its implementation, as well as clauses on skills recognition, and on return and gender-responsive labour reintegration, including in the event of crisis situations. Table 11 of the guidance provides a practical list of the roles of social partners in the implementation of BLMAs, which highlights the extensive potential role of trade unions. The guidance is expected to be used for training and preparing for negotiating bilateral labour agreements.<sup>20</sup> The challenge over the next four years is to ensure its effective application.

15 <https://www.ei-ie.org/en/dossier/1361:teach-for-the-planet>

16 <https://publicservices.international/resources/news/migration-dialogues-on-gaps-and-emerging-challenges-the-impact-of-our-evolving-climate-on-migrants?id=12691&lang=en> 24.02.22

17 'Fighting for our Future: An IUF Guide on Tackling the Climate Crisis in Intensive Livestock Production February 2022 available at: <https://www.iuf.org/news/editorial-fighting-for-our-future-iufs-first-climate-crisis-guide-for-affiliates/>

18 Global Unions: 'Climate Action and a Caring Gender-Transformative Just Transition Now! Conference at UNCSW 66th Session March 16, 2022.

19 'Trade unions' assessment of the scope, use and effects of circular and temporary labour migration and their related policies and programmes' by Nora Wintour, in Temporary labour migration: Two studies on workers' perspectives and actions Labour Migration Branch and Bureau of Workers' Activities, ILO, August 2021 [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_816182/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_816182/lang--en/index.htm)

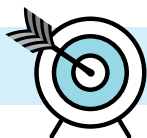
20 See ILO February 2022: [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_837529/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_837529/lang--en/index.htm)

There are many examples of trade unions taking action to strengthen regular pathways to migration. For example, the AFL-CIO in the USA has campaigned for comprehensive immigration and labour law reform to ensure rights for all workers regardless of their immigration status and has developed resources to build migrant workers' awareness of their rights. They advocate for a broad path to citizenship for all people including extending permanent protection for those with temporary status. They have called for the government to act against employers who commit criminal violations of workers' rights rather than treating migrant workers as the criminals. They note that the USA currently spends eleven times as much on immigration enforcement as it does on labour standards enforcement.<sup>21</sup>

The European Trade Union Confederation (ETUC) has called for more regular and decent labour migration pathways for third country nationals across different skills levels and sectors and a comprehensive and rights-based approach. It expressed concerns about the European Pact on Asylum and Migration adopted by the European Commission in September 2020, which risks fuelling anti-migrant politics and division. It has also expressed concern about the trend towards the use of BMLAs as a means of labour migration governance without the necessary safeguards and guarantees for workers' rights. It has also called on Member States to provide regularisation mechanisms for those living and working in the EU without residence permits.<sup>22</sup>

In Italy, following campaigns by the agricultural union, FLAI-CGIL and other unions, the Italian government in 2020 adopted a regularisation scheme for undocumented workers, with two channels whereby either an employer can submit a request on behalf of a migrant worker or a migrant with an expired permit can apply for a six-month permit and look for work. The sectors concerned include care work, agriculture, animal husbandry and aquaculture.<sup>23</sup>

Women who migrate for care work constitute the largest segment of women who migrate for employment. While in Latin America, and increasingly in Africa and Asia, there are sub-regional and bi-national agreements on freedom of mobility and South-South migration is permitted, the main problem is that workers in the informal economy lack access to benefits and protection. Some of the regional economic schemes, for example, CARICOM, include freedom of mobility without visas, depending on the skills level of the person. However, this excludes domestic workers who are classified as unskilled and domestic workers' organisations are seeking to have all workers included on the basis of equality of rights.



## Objective 6: Facilitate fair and ethical recruitment

Trade unions criticise the increasing use of private recruitment agencies rather than public employment services. They consider that the private recruitment industry should be regulated through mandatory, enforceable mechanisms rather than voluntary programmes and promote the ILO's *'General Principles and Operational Guidelines on Fair Recruitment'*. Trade unions note that at present, recruitment of migrant workers often takes place within a legal and regulatory vacuum, leading to grave abuses of the rights of migrant workers. The licensing or regulation of recruitment agencies is a long-standing demand, together with the joint liability of recruiters and employers so migrant workers have greater remedy options in the event of contract violations. They call for the strict prohibition of the charging of fees to migrant workers.

Recruitment fees charged to workers are prohibited in 90 countries. In many situations, recruitment fees are a mechanism to make workers dependent on the employer through indebtedness. Fees can amount to more than one year's average monthly earnings.<sup>24</sup> In addition, there are still five countries in the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Saudi Arabia and the UAE) as well as Lebanon and Jordan that use the *kafala* employment sponsorship system, which gives the employer significant legal control over the migrant worker, makes them vulnerable to abuse and means they can be charged with absconding and other penalties if they seek to leave their job, which traces directly back to slavery. Trade unions, together

24 Background Paper for ILO Tripartite Meeting of Experts on Defining Recruitment Fees and Related Costs, 2018 available at: [https://www.ilo.org/global/topics/labour-migration/events-training/WCMS\\_646693/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/events-training/WCMS_646693/lang--en/index.htm)



with broad civil society coalitions such as the Global Coalition on Migration, have called for this system to be abolished.<sup>25</sup> Even where there is not a sponsorship system, immigration measures often restrict the movement of the worker and make it hard to change employer.

Trade unions have engaged actively in exposing the abuses of exploitative recruitment agencies and carried out a number of studies to highlight the scale of abuse, the extremely high levels of recruitment fees charged and the extensive use of intermediaries and brokers. They have set up on-line information services and advice centres as well as publishing a range of pre- and post-departure information kits, while building alliances between trade unions in countries of origin and of destination. In some cases, unions have also aided migrants to repatriate and reintegrate in their home countries.

## Trade Union Actions to Promote Fair and Ethical Recruitment and Decent Work

### The ITUC Migrant Worker 'Recruitment Advisor' Platform

Launched in April 2018 and developed with the support of the ILO Fair Recruitment Initiative, the ITUC Migrant Workers 'Recruitment Advisor' Platform<sup>26</sup> is designed to promote fair recruitment. It lists the licensed private recruitment agencies, as provided by governments, in seven countries and allows workers easy access to information about recruitment agencies and their rights. It also lists existing BLMAs in the selected countries. The platform invites migrant workers to review the recruitment agencies and share their experiences. Trade unions at national level have worked hard to promote the platform. It also provides a support service and has a reporting system for violations experienced by migrant workers that has been implemented in collaboration with Migrant Forum in Asia (MFA). By March 2022, Recruitment Advisor had been used by over 156,000 users.<sup>27</sup> The data and evidence it generates is used for advocacy. For example, a study based on surveys completed by 1,500 Nepali migrant workers revealed the scale of abuse suffered, with 98% of workers paying high recruitment fees, over 50% reporting they did not receive the salary they were initially promised and 96% reporting that the employer withheld their passport. The extensive use of brokers or sub-agents as intermediaries was also revealed with over 40% of respondents stating they used an intermediary. The lack of access to trade unions, justice systems or dispute resolution mechanisms was also documented.<sup>28</sup>

### PSI: Promoting fair and ethical recruitment in health and social services sector

PSI promotes fair and ethical recruitment and the *ILO's General Principles and Operational Guidelines on Fair Recruitment*.<sup>29</sup> It has written an introductory guide on 'Zero Fees in the Recruitment Process'.<sup>30</sup> It has called for the full implementation and enforcement of the 2010 WHO Code on the International Recruitment of Health Personnel by Member States and considers it should become a binding instrument with strong lateral links to other public health and equality policies.<sup>31</sup> The Code sets down the principle that destination countries seeking to recruit health workers from abroad have a responsibility to sustain health workforces and refrain from recruiting in countries facing critical health worker shortages. It also commits to the protection of migrant health workers' rights. However, implementation of the Code has revealed critical

25 See ITUC 22.11.2021 <https://www.ituc-csi.org/uae-labour-law-reforms-fail>

26 See: <https://www.recruitmentadvisor.org>

27 Interview with ITUC, 5.04.2022

28 'Analysis of Recruitment Reviews from Migrant Workers in Nepal' by Jeevan Baniya, ITUC October 2021

29 See PSI Campaign #NoRecruitmentFees, [www.world-psi.or/nrf](http://www.world-psi.or/nrf).

30 [https://pop-umbrella.s3.amazonaws.com/uploads/31b50b7f-abd8-4488-a62d-fb46a8b90784\\_primer\\_english\\_final.pdf](https://pop-umbrella.s3.amazonaws.com/uploads/31b50b7f-abd8-4488-a62d-fb46a8b90784_primer_english_final.pdf)

31 PSI-FES Policy Brief "Resilience Across Borders" <https://publicservices.international/resources/publications/building-resilience-across-borders-a-policy-brief-on-health-worker-migration?id=11444&lang=en>

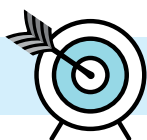
gaps, with only 80 out of 194 WHO Member States reporting in the third round of reporting and of those only 27 Member States highlighting laws and policies consistent with the Code.

PSI together with other organisations has called for the principles established in the Code to be embedded in all future bilateral, regional or multilateral agreements. PSI advocates for origin countries to be provided some form of compensation for the costs of the educational investment in their migrating workforce through training or other reciprocal arrangements. The EPSU-HOSPEEM Code of Conduct on Ethical Cross-Border Recruitment and Retention (2008) is an example of a social partner initiative at EU level for the hospital sector. Since its adoption, the European Public Sector Unions (EPSU) considers there has been a constructive dialogue on its implementation.<sup>32</sup>

## The Commonwealth Code of Practice for the International Recruitment of Teachers and the Commonwealth Teacher Recruitment Protocol

Education International (EI) considers that both the Commonwealth Code of Practice and Recruitment Protocol<sup>33</sup> are good practice, particularly regarding the emphasis on transparency, fairness and mutual benefits, as well as the involvement of trade unions in their drafting and implementation. For example, the Recruitment Protocol commits recruiting and source countries to agree on mutually acceptable measures to mitigate any harmful impacts of such recruitment. It also states that recruited teachers shall enjoy employment conditions not less than those of nationals of similar status and occupying similar positions. The Commonwealth Secretariat established a monitoring and evaluation group and the annual review meetings comprised equal numbers of union representatives and government. The Group worked on model legislation to make the Protocol operational in source and recruiting countries, together with a regulatory framework for recruiters and agencies. The EI regrets that these monitoring meetings were suspended some years back which weakened the effective implementation of the Protocol.<sup>34</sup>

The American Federation of Teachers (AFT) in the USA have supported migrant teachers from the Philippines who are abused by private recruitment agencies with exorbitant fees of up to USD 15,000 and if they do not comply with the requirements and payments, face threats of being reported to immigration authorities and sued.<sup>35</sup> The AFT have also been instrumental in developing a Code of Ethical International Recruitment and Employment of Teachers for the USA.<sup>36</sup>



### Objective 6: Safeguard conditions that ensure decent work

Organising and recruitment of migrant workers into trade union structures is the cornerstone of trade union strategies, with the aim of ensuring decent terms and conditions of work. Trade unions are increasingly giving priority to organising migrant workers and have created specific posts with mandates on migrant workers, both to promote organising and to carry out advocacy with the government. Trade unions have extensive experience in providing support to migrant workers so they can claim their rights and have information on how to join a union. They have consistently emphasised the need for labour laws and policies that ensure migrant workers benefit from equal treatment and opportunities in respect of wages, working conditions, membership of trade unions, coverage of collective agreements, social security and other benefits, in compliance with ILO Conventions.

32 Employees and trade unions renew commitment to ethical cross-border recruitment and retention policies' EPSU Media Release, 8.04 2018: <https://www.epsu.org/article/employers-and-trade-unions-renew-commitment-ethical-cross-border-recruitment-and-retention>

33 <https://commonwealtheducation.org/portfolio-items/commonwealth-teacher-recruitment-protocol/>

34 Interview with Education International, 01.04.2022

35 <https://www.aft.org/news/aft-fights-exploitation-teachers-philippines>

36 <https://www.aft.org/our-community/immigration/teacher-recruitment-and-migration>

However, in many cases, there are still legal and practical obstacles for migrant workers to join trade unions. In Asia, for example, domestic workers' associations are generally not recognised as trade unions. In some countries, migrant workers are prohibited from joining or taking up leadership positions in trade unions, such as in many Central American countries.

## The African Trade Unions Migration Network (ATUMNET)

The African Trade Unions Migration Network (ATUMNET) was formed in August 2016 in order to develop trade union responses to labour migration and protect and promote the rights of migrants and refugees. Since then, it has expanded to cover 42 countries and the African regional organisation of the ITUC and all global union federations are represented. It has established network focal persons in countries of destination and works in partnership with civil society organisations in some of the Gulf Cooperation Countries and with the African diaspora in Europe and the Americas. ATUMNET has carried out sustained advocacy to ensure that the BLMAs signed by African countries include enhanced rights and has called continuously for reform of labour migration governance, including for a review of the Abu Dhabi Dialogue. It has also participated in the development of the AU guide on BLMAs. Furthermore, since 2019, African countries have ratified a total of 15 Conventions related to labour migration, in part as a result of advocacy from trade unions. ATUMNET is also supporting the ITUC on-line tool, the Migrant Recruitment Advisor, which will be expanded to include Ghana in April 2022, and there are plans to extend to Uganda, Ethiopia and Nigeria. The network also ensures a gender focus in all its work, as migrant women are particularly vulnerable, and more so during the COVID-19 pandemic.<sup>37</sup>

## Central Asia Labour Rights Monitoring Mission (LRMM)

The LRMM links together human rights groups, civil society organisations and independent trade unions in five migrant sending countries and in Russia as a destination country. The website is produced in six languages and promotes the exchange of information and cooperation to find practical ways to support trade union rights, and to resolve labour issues, including those faced by migrant workers. Prior to the pandemic, the IUF affiliated union, NOVOPROF, launched a campaign to organise fast food workers in Russia, the great majority of whom are migrant workers.<sup>38</sup> The pandemic exposed how vulnerable migrant workers<sup>39</sup> were without left without access to medical care and unable to return home due to border closures. Their dire situation reinforced the arguments for equal access to medical care and social protection and the need for the ratification of the ILO and UN Conventions on migrant workers.<sup>40</sup>

## Campaign for decent work in mega sports events – the case of construction workers in Qatar

BWI's global campaign for decent work in mega sports events has brought onto the world stage the exploitation and abuse of construction workers, many of whom are migrant workers. It has meant global unions and their affiliates are now recognised partners in a multi-stakeholder alliance to uphold human rights and the ILO decent work agenda into every aspect of mega-sports events.

The BWI campaign for decent work around the 2022 FIFA World Cup in Qatar has achieved significant decent work gains for migrant workers involved in the construction of World Cup stadia and related infrastructure projects. Migrant workers represent 95% of the workforce in Qatar. While Qatar is not a signatory to ILO Conventions 87 and 98, since November 2016, it has made considerable progress in enhancing the protection of migrant workers' rights. In that year, the BWI signed a Memorandum of Understanding with the Supreme Committee for Delivery and Legacy for the 2022 World Cup (SC) for the joint inspection of the construction sites and accommodation facilities to ensure occupational health and safety standards

37 Information provided by Deputy General Secretary, ITUC Africa and documentation on work of ATUMNET

38 See [https://labourcentralasia.org/en/news/?f=1ZIE7PtE&PAGEN\\_1=3](https://labourcentralasia.org/en/news/?f=1ZIE7PtE&PAGEN_1=3)

39 IUF 05.08.2016 <https://www.iuf.org/news/novoprof-launches-campaign-people-in-fast-food/> and interview with IUF representative, 6.04.2022

40 Interview with IUF representative, 6.04.2022

(OHS) and to include a set of workers' welfare standards in future construction tenders, which then become contractually binding. Since the signing of the agreement, more than 20 joint inspections, covering 30,000 workers at its peak have been carried out, and there have been substantial improvements in OHS. Workers' safety representatives have also been trained and the BWI has monitored the election of workers' representatives on construction sites.<sup>41</sup>

As a consequence of international advocacy and technical assistance by the ILO, the government of Qatar has introduced significant legal reforms, including the establishment of a minimum wage and minimum allowances for food and accommodation, applicable regardless of the nationality of the worker, and including domestic workers. It is the first country in the region to introduce a non-discriminatory minimum wage and came into effect in March 2021. It also created a Workers' Support and Insurance Fund to cover delayed and unpaid wages of migrant workers when private companies declare bankruptcy. Law No 18 2020 effectively abolished the kafala employer sponsorship system and removed the requirement of an exit permit. Furthermore, the SC introduced a Universal Reimbursement Scheme for recruitment fees (reported to vary between USD 710 and USD 2,900). Over 260 contractors covering 49,000 workers, have committed to reimbursing the equivalent of an average recruitment fee without any proof of payment, with an estimated total cost of USD 28.2 million. The government has also established Visa Centres in origin countries to provide information and prevent contract substitution on arrival.

BWI has worked with the SC and construction companies on developing workers' representation through workers' welfare forums and workers' welfare committees. There are now over 100 Workers' Welfare Forums, set up by the SC to encourage workers to put forward proposals concerning working and living conditions. The BWI has conducted nearly 100 face-to-face and online training and awareness-raising activities on labour laws, OSH, leadership development covering more than 40,000 workers across national migrant communities in Qatar, workers' representatives in workers' welfare committees and workers' welfare forums.

In April of 2018, the BWI organised the first Community Leaders Forum (CLF) on Workers Welfare, attended by 150 construction, hospitality, transport and domestic workers. At the Forum, workers and community representatives engage in an open discussion with high-ranking officials from the Ministry of Labour on concrete issues concerning the rights and welfare of workers. Over the years, the Forum has evolved into a regular platform for dialogue and cooperation between the CLF and the Ministry of Labour. Since its inception in 2018, 10 meetings of the CLF have taken place under the auspices of the BWI and the Ministry. There are now bi-annual meetings with the Ministry where workers can raise key issues, including sector-wide issues that go beyond grievances at individual enterprises.

In 2017, BWI signed a framework agreement with QDVC/VINCI, a multinational company (MNC) engaged in major infrastructure projects in Qatar. Two joint audits were conducted in 2019 and 2021 and noted considerable progress in areas of health and safety, workers' welfare and accommodation, workers' committee and compliance with employment contracts. BWI also has framework agreements with BESIX (Belgium) and We Build (formerly Salini-Impregilo, Italy) and the three MNCs have committed to regular joint inspections with BWI and the SC.

The legal reforms still need to be effectively enforced. The Ministry of Labour (formerly MADSLA) set up a Labour Disputes Resolution System to address workers' claims but there is a huge case backlog and delays, particularly difficult for workers who return home with their claim pending. BWI has assisted up to 2,000 migrant workers in accessing the labour justice system helping to settle cases for more than 5 million Qatari Ryals (USD. 1.37 million). Cases range from non-payment of wages and other wage theft, violations of employment contracts, redress for workplace injuries and requests of repatriation. At three legal clinics conducted in 2018 and 2019, complaints referred to the BWI included non-payment of wages, covering periods for as long as 4 to 14 months. Currently, BWI has on-going cases for 202 workers. The Ministry of

41 'Dribble or Goal - Tracking the Score for Decent Work Legacy in Qatar', BWI, July 2021, available at: <https://www.bwint.org/cms/dribble-or-goal-bwi-pushes-for-proposals-to-complete-labour-reforms-in-qatar-2379> and interview with BWI staff, 13.04.2022



Labour does not admit collective claims (or class actions) and there is no mechanism to sanction employers if they take retaliatory action against a worker submitting a claim.

Sectoral collective bargaining would help create a level playing field so that responsible employers would not be undermined by companies that seek competitive advantage by under-paying or otherwise exploiting workers. The BWI and other global unions have called for the government to grant recognition and registration to a Migrant Workers' Centre, run by migrants, as a safe place for migrants to learn about their rights, seek legal advice and provide skills training for worker representatives, including in OHS.

## Advocacy on legal and social protection for migrant workers in agriculture and hospitality

In the EU, the IUF and the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) have consistently called for greater legal protection for seasonal migrant workers. In 2020, the European Commission issued 'Guidelines on Seasonal Workers in the EU in the Context of COVID-19 Outbreak', whereby Member States are encouraged to ensure seasonal workers are covered by relevant national laws and collective bargaining agreements, with regard to pay, dismissal, OHS and social security. If seasonal workers lose their job, the guidelines recommend they should retain their legal status as workers for six months, provided they register with the employment services. The IUF EFFAT has recognised the guidelines as a first step but call for binding legislative measures, including the provision of decent housing and chain subcontracting liability, particularly relevant for migrant workers in hospitality and agriculture. The Federation highlighted the urgent need to improve the situation of agricultural workers, recommending that financial support for the sector in Europe should be conditional on respect for collective agreements and concrete improvements in agricultural workers' living and working conditions.<sup>42</sup>

Agricultural unions in other continents are supporting migrant seasonal workers to protect their rights. For example, in April 2021, in Costa Rica, IUF and SINTRAICA denounced the situation of a group of Nicaraguans who travelled to work in the sugar cane harvest. Hired through a labour supplier to work at a major sugar mill in Guanacaste, after completing the work, they found their wages were not paid, they had no money for food and accommodation, and no way to pay for their return travel. The unions intervened with the company management, Ministry of Labour and relevant authorities, demanding that the workers be paid minimum wages and provided with adequate food and accommodation, that freedom of association and collective bargaining be respected and that workers be treated with dignity.<sup>43</sup>

In Niger, the IUF national committee of affiliates set up a contact office for migrants, mainly from Benin, Burkina Faso and Nigeria, working in the informal economy in agriculture and hotels. They set up two support groups and published an information leaflet in three languages. In 2020, with the support of the IUF national committee, the groups were able to negotiate with the municipal authorities on the resumption of their activities in the context of the public health situation. They also reached an agreement so that the migrant workers and their families who were victims of the local floods, could access food assistance and housing whereas previously they had been excluded from the State aid. The groups were invited to speak about their experience during the national celebrations of International Migrants Day in 2021 and are receiving support to improve agricultural practices and small businesses.

42 See IUF 20/07/2020: <https://www.iuf.org/news/iuf-europe-new-eu-guidelines-on-seasonal-workers-a-step-in-the-right-direction-but-binding-measures-are-urgently-needed/>

43 See IUF 7.04.2021 <https://www.iuf.org/news/slave-like-conditions-in-costa-rican-sugarcane-harvest/>

## Unions reach out to organise migrant workers in construction and forestry

BWI and the European Federation of Building and Woodworkers (EFBWW) have highlighted cases of the severe labour exploitation of migrant workers in construction, forestry and other sectors in the EU, with documented cases of workers being paid as little as €5-a-day, being forced to pay debts to traffickers and sleeping in shipping containers with no water or electricity. The PROFBUD construction union of Ukraine campaigned for wage arrears to be paid to Ukrainian workers at a company in Poland and set up an advisory centre to help workers raise grievances with employers, including on occupational health and safety, compensation for injuries and wage arrears.<sup>44</sup>

Trade unions in destination countries have actively recruited migrant workers. In Germany, IG-BAU, which organises in the construction and agricultural sector, changed their organising scheme in 2021 so that migrant workers can now join the union as an annual member before they arrive in the country through a single online registration and dues payment system. In this way they can access free information in their preferred language on employment and social rights, legal advice, assistance and representation and strike support. Unless renewed, the membership drops automatically after 12 months.<sup>45</sup>

In Tamil Nadu, India, in June 2021, BWI affiliate TKTMS working with other civil society organisations called on the State government to implement the provisions of the Non-Resident Tamil Act of 2011 and set up a Welfare Board to protect the rights of Tamil migrant workers; and extend those provisions to migrant workers in Tamil Nadu. The COVID-19 pandemic caused extreme distress and the union provided immediate assistance and advocated for government to act.<sup>46</sup>

In Argentina, UOLRA changed its Statutes in 2016 so that it now organises the informal brick-makers, many of whom are migrant workers and their families from Bolivia. Previously, the organisation only organised workers in factories, which represent about 20% of the total brick-making workforce. Over the last 5 years, membership has grown rapidly and it now covers 17 provinces of the Republic. The union has established cooperation agreements with the Federation of Municipalities and has established social dialogue platforms, the Provincial Brick Makers Coordinating Committees, to develop an integrated plan of support for the sector. The union has specific training programmes for women brick makers and they have been active participants in campaigns against harassment and violence and for the ratification of ILO Convention 190.<sup>47</sup>

## Organising and negotiating for domestic workers

In Argentina, the IDWF affiliate, UPACP, signed an agreement with the Ministry of Women and the employers' association, SACRA, on working conditions in the care and domestic work sector, where around 9% of women workers are migrants. Among other issues, domestic workers are now included in the state pension scheme. In Peru, following long-standing advocacy from IDWF affiliated unions, the government passed comprehensive legislation covering an estimated 1 million domestic workers, requiring a written employment contract, the minimum wage, maximum 48 hour week, holiday leave and the right to join a union and collective bargaining.<sup>48</sup> In São Paulo, Brazil, the union of domestic workers, STDMS, has established a Migrant Workers' Secretariat position and has a dedicated radio programme for migrant

44 <https://www.bwint.org/cms/ukrainian-union-explores-ways-to-protect-migrant-workers-in-eu-2404>

45 See: Migrant workers can now become trade unionists even before entering Germany: <https://www.bwint.org/cms/migrant-workers-can-now-become-trade-unionists-even-before-entering-germany-2410>

46 <https://www.bwint.org/cms/india-union-calls-for-creation-of-welfare-board-for-migrant-workers-2350>

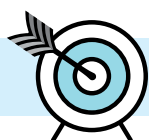
47 BWI 'Women in the Construction Trades: Breaking down barriers to promote gender equality at the workplace' September 2021 [https://www.bwint.org/web/content/cms.media/5680/datas/WIT%20Global%20Research%20Report%202021%20\(1\).pdf](https://www.bwint.org/web/content/cms.media/5680/datas/WIT%20Global%20Research%20Report%202021%20(1).pdf)

48 See IDWF Annual Report 2020 [https://idwfed.org/en/resources/idwf-annual-report-2020-united-strong-growing/@@display-file/attachment\\_1](https://idwfed.org/en/resources/idwf-annual-report-2020-united-strong-growing/@@display-file/attachment_1) published September 2021

workers. It has a recognised collective agreement and migrant domestic workers are consulted prior to the negotiations and their demands are generally successfully incorporated in the new agreement.<sup>49</sup>

In Asia, domestic workers often lack legal recognition as workers and are therefore excluded from any labour law protections. In Malaysia, for example, migrant domestic workers are excluded from the MoU with Indonesia as they are considered unskilled workers and are forbidden to organise. There have been well documented cases of severe abuse. In Singapore, domestic workers are excluded from the labour laws and in the Lebanon, migrant domestic workers are excluded and undocumented workers are at risk of deportation if they seek medical help. In this region, the IDWF focuses its organising initiatives on the country of destination of migrant domestic workers. It has mapped out existing organisations, which are often faith-based or local community-based mutual help organisations. The IDWF reaches out to them to build the capacity of their leaders through training on 'know-your-rights' and in public-speaking and advocacy.

In Italy, DOMINA, the National Association for Family Employment in the Domestic Work Sector and FILCAMS-CGIL, in association with the ILO Office for Italy and San Marino, launched a joint campaign to provide correct information to domestic workers planning to work in Italy in order to prevent fraudulent practices during the recruitment and placement process.<sup>50</sup>



### Objective 15: Provide access to basic services for migrants



### Objective 16: Empower migrants and societies to realize full inclusion and social cohesion

Public services, such as health, social services and education, are critical in addressing inequality, and promoting inclusion and social cohesion as well as the sustainable integration of migrants and refugees into society. Access to quality public services for all, both migrant and host communities, supports social cohesion and reduces the risk of racism and xenophobia.

## Advocacy to strengthen universal health care and protect health workers

PSI argues that public services cannot be provided by temporary or seasonal workers and there cannot be sustainable models of temporary or circular migration in public services. However, at present, health workers from developing countries are being recruited in increasing numbers by OECD countries to fill ongoing and projected staffing shortages. Over the last decade, there has been a 60% increase in the number of migrant doctors and nurses in OECD countries and the numbers are predicted to increase.<sup>51</sup>

The COVID-19 pandemic put enormous pressure on underfunded public health systems, with a chronic lack of equipment and resources to allow governments to respond effectively to health care needs. It has shown the vital need for adequate numbers of health workers to provide universal health care services. It also highlighted the key role and contribution that migrant health workers, particularly women workers, have made to the COVID-19 crisis responses. A 2021 survey conducted by PSI and the Open University-UK covered 40 unions organising health and social care workers in 32 countries. Over 40% of the unions reported that migrant workers faced problems associated with short-term contracts and employment insecurity and that 27% reported that migrant health and social workers only had unpaid sick leave when

49 Information provided by CONLACTRAHO coordinator, 3.05.2022 and see an interview about the collective agreement at [https://www.youtube.com/watch?v=xXhwBlrDiFs&ab\\_channel=Dom%C3%A9sticcasem%C3%A7%C3%A3o](https://www.youtube.com/watch?v=xXhwBlrDiFs&ab_channel=Dom%C3%A9sticcasem%C3%A7%C3%A3o) and general information about the union at <http://www.sindomes-ticastdmsp.com.br/>

50 <https://idwfed.org/en/updates/italy-domina-conference-the-impact-of-domestic-work-in-the-countries-of-origin>

51 OECD (2020): Contribution of migrant doctors and nurses to tackling COVID-19 crisis in OECD countries, Paris OECD

they were infected with COVID-19. Migrant health workers had greater vulnerability to infection from COVID-19 and also faced a rise in racist abuse and gender-based violence.<sup>52</sup> In the USA, almost half of the deaths of nurses due to COVID-19 are nurses of colour or those with a migrant background. A third of the deaths are nurses from the Philippines.<sup>53</sup> The PSI considers that these levels of mortality are unacceptable and could have been avoided.

In Tunisia, a bilateral agreement signed between the World Health Organization and the Ministry of Health stipulates that all migrant workers have the right to receive health care in the public hospitals. PSI affiliates are playing a key role in ensuring the effective implementation of this agreement. Moreover, PSI affiliates in Tunisia joined their trade union centre, UGTT, in advocating for the rights of migrant workers to organise and join trade unions, which became effective as of December 2020, when union membership cards were distributed to migrant workers in the health care sector, mainly from Sub-Saharan Africa.

From their arrival, migrants need access to quality health care, decent housing and social security protection. PSI's European organisation, the European Federation of Public Service Unions (EPSU) is a member of the "European Care Network" (EU Care), which gives voice to workers involved in the reception of migrants and refugees, as first responders. It aims to strengthen European links, support workers in delivering a public service of hospitality that respects the dignity and rights of migrants and asylum-seekers; and provide a platform to discuss migration policy developments at European and national levels.

## Promoting the inclusion of migrants and refugees in education

Education is particularly important for the inclusion of migrant and refugee children and governments in both transit and receiving countries need to ensure that they have access to quality education. EI is a long-standing advocate for inclusive education systems and school communities where migrant and refugee children feel welcome. EI has argued that teachers in destination countries should be trained and supported to meet the diverse needs of refugee and migrant children, and mechanisms to accredit and recognise the qualifications of migrant teachers should be put in place. EI produced a toolkit in December 2018 on promoting the inclusion of migrants and refugees to assist education unions to understand the phenomenon of migration and forced displacement and develop activities to support migrant and refugee rights through education.<sup>54</sup>

The European region of EI, the European Trade Union Committee for Education (ETUCE), has promoted the inclusion of migrants and refugees in education through a European sectoral social partners' project, which started in 2017 and concluded in 2019. Case studies from Spain, Serbia and Belgium highlighted the importance of support-based inclusive policies, the active use of first language as a vehicle for learning, the importance of professional development of teachers, support for migrant teachers and fostering cooperation with parents and the local community. The project also developed the ETUCE-EFEE Joint Practical Guidelines on how to promote effective inclusion of migrant and refugee learners and a quality framework for an effective inclusion of migrants and refugees. A number of countries have developed specific programmes to assist newly arrived teachers through language skill training. In the case of Sweden and Norway, Lärarförbundet and UEN were able to negotiate with their governments to set up Fast Track induction programmes.<sup>55</sup>

Many national teachers' trade unions have taken initiatives to support inclusive education for migrant and refugee children. For example, the Education Institute of Scotland (EIS), the teaching union, has distributed more than one thousand welcome packs to migrant and refugee children and young people

52 PSI-OU Fact Sheets: <https://publicservices.international/resources/publications/factsheet-1-migrant-health--social-care-workers-during-the-pandemic---what-we-know-about-their-situation?id=12524&lang=en> & Factsheet #3: Migrant Health & Social Care Workers during the pandemic - Building the trade union agenda - PSI - The global union federation of workers in public services

53 <https://www.fes.de/en/displacement-migration-integration/article-page-flight-migration-integration/migrant-health-workers-at-the-frontlines>

54 See EI 10.12.2018 at <https://www.ei-ie.org/en/item/25269:promoting-integration-of-migrants-and-refugees-in-and-through-education-toolkit>

55 See ETUCE: <https://www.csee-etu.org/en/resources/publications/3281-promoting-effective-integration-of-migrants-and-refugees-in-education-experiences-from-spain-serbia-and-belgium-2019> & <https://www.csee-etu.org/en/projects/education-trade-unions-and-inclusive-schools-embracing-diversity-in-education/3577-project-introduction>



across Scotland. The guides in various languages contain age appropriate information and information for parents.<sup>56</sup> In Serbia, the TUS has provided support for refugee children who want to continue further education in VET schools. The OAJ in Finland has advocated for targeted support for students from migrant and refugee backgrounds, including additional teaching personnel and education resources. The FeSP-UGT in Spain has developed digital tools and a teacher training curriculum and materials to support intercultural learning and to combat racism in the classroom.

In Uganda and Southern Sudan, member organisations of EI in those countries have participated in an EU programme 'Building Resilience in Crises through Education (BRiCE)' in the refugee and internally displaced persons (IDP) camps. When schools closed because of the COVID-19 pandemic, lessons were broadcast via radio and television, supplemented with home learning materials. Teachers were supported with training on how to conduct distance teaching and provided with bicycles so they could move around to assist learners in clusters and provide psycho-social support. Recommendations from a report prepared by EI in March 2021 on the situation in the camps called for strengthening of the provision of accessible, relevant and equitable education, empowerment of teachers and the upholding of UN global frameworks.<sup>57</sup> In Uganda, UNATU, the teachers' union, has also provided support to refugee teachers who are working in the IDP camps or refugee settlement areas to ensure uniform employment conditions, provide training and support for the certification of qualified refugee teachers.<sup>58</sup>

The EI is also a strong advocate for effective integration measures for migrant teachers, including local language training together with awareness-raising initiatives which should be led by the receiving countries' school authorities, the Ministry of Education, teacher unions and other stakeholders in order to tackle discrimination against migrant teachers. There is also a need to facilitate return migration so that teachers who have acquired additional skills, expertise and experience can return to their home country and take up teaching positions.



### **Objective 18: Invest in skills development and facilitate mutual recognition of skills, qualifications and competences**

The CGU believes that mutual recognition of skills and qualifications must be based on fairness, non-discrimination, equality of opportunity and treatment and protection of human rights. However, at the moment, migrant workers often find it impossible to have their skills recognised or else face long delays in processing certificates and obtaining visas.

Trade union pre-departure and post-arrival programmes often include information on procedures for skills recognition and certification, as well as opportunities for skills development and up-skilling to enhance employability. The ETUC 'UnionMigrantNet' is a network of contact points providing services to migrants, established, managed and supported by trade unions. It provides information on a range of issues, including the recognition of diplomas, skills and qualifications. Trade unions have called for an EU framework to be developed that ensures that all countries set up mechanisms for the recognition of qualifications and provide access to training to acquire skills and qualifications.<sup>59</sup> There are many practical hurdles at the moment for third party nationals to have their diplomas recognised and many therefore are forced to enter the informal or undeclared job market in domestic or care work.<sup>60</sup>

Global skills partnerships on migration (GSPMs) are public-private partnerships promoted in the GCM as a mechanism to train and source skilled workers from low and middle-income countries in their home countries, providing workers with relevant skills and visas to migrate to work for an agreed duration to

56 See EIS 04.11.2019 available at: <https://www.eis.org.uk/Policy-And-Publications/WelcomeToScotland>

57 See Education International: 'The Education for Life Project in Uganda and South Sudan,' prepared by Prof Steve Nwokeocha March 2021

58 UNATU's experience supporting teachers in refugee areas (ei-ie.org)

59 UnionMigrantNet. – the European trade unions' network of assistance for migrants

60 Interview with European Trade Union Confederation (ETUC) coordinator, UnionMigrantNetwork, 13.04.2022

the country of destination that funded their training, while a second track provides training for the home labour market. The (GSPM) is a joint initiative between ILO, IOM, UNESCO, IOE and ITUC to cooperate on initiatives for the development and recognition of migrant workers' skills.<sup>61</sup>

Some governments and employers seek to reserve legal pathways for skilled migrants only, although they remain a minority of those seeking to migrate. Because of adverse drivers, including political instability and the climate crisis, refugees and others seeking protection, who all have a range of different skills levels, will represent an increasing number of migrants.

The ITUC highlights the issue of cross-border recognition of qualifications and skills. Skill recognition systems cannot be left to private standards or regulations but must be part of a public regulatory framework, accessible for free, on the basis of equal treatment and processes that prevent abuses and allow for remedies. Tripartite social dialogue is crucial to develop the public regulatory frameworks together with the policies and implementation and monitoring mechanisms that are the basis for building sustainability, trust and transparency.

The CGU has emphasised that these partnerships must ensure compliance with decent work, labour rights, including the right to join trade unions and collective bargaining, alignment with sustainable development, particularly as concerns critical skills in areas such as health and education. These schemes specifically require migrants to return home, and the CGU has criticised the lack of pathways to permanent residency or family reunion.

As PSI highlights, a real partnership embraces the sustainability of workforces and skills needs of both countries or origin and destination, which only be achieved through government-to-government regulatory framework, legally enforceable guarantees for trainees, and with the participation of social partners. In the health and social care sector, PSI has expressed concerns as it is not clear how such programmes can benefit the origin countries and how they can effectively contribute to meeting goals of Universal Health Coverage. PSI is working to build the capacity of its affiliates in understanding GSPMs.

The UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education (2019) covers recognition of qualifications, giving access to higher education, including recognition of partial studies and prior learning, as well as that of higher education qualifications obtained in other countries. The Convention also covers the qualifications of migrants and refugees and other displaced persons and will be particularly valuable for them as it will help ensure that qualifications are assessed in a fair, balanced non-discriminatory way. Recognition processes are also simplified and the burden of proof is shifted from applicants to recognition authorities. However, EI regrets that the number of State ratifications of the Convention remains low. It will enter into force when 20 States have ratified it.<sup>62</sup>



### **Objective 22: Establish mechanisms for the portability of social security entitlements and earned benefits**

Because many migrant workers are concentrated in low paid, precarious and informal work, they are disproportionately excluded from access to social protection. The World Bank has estimated that only 23% of migrants have access to social protection in both destination and origin countries, 55% have access in destination countries but lost entitlements in origin countries and 22% are excluded from all social protection. A mapping by the ILO found 37 countries do not have equal treatment for migrants to access public health and 40 countries do not have legal provisions to ensure equal treatment regarding social security. Often the acquisition of residency rights is conditional on migrants proving they are financially autonomous and have not received social assistance benefits. There is also a worrying trend to link control

61 [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_821274.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_821274.pdf)

62 There were 13 ratifications in progress or completed on 2.05.2022 see: <https://en.unesco.org/about-us/legal-affairs/global-convention-recognition-qualifications-concerning-higher-education>

of migration to access to health care.<sup>63</sup> Trade unions are strong advocates for access to social protection for all migrants and the portability of social security entitlements.<sup>64</sup>

### The Council of Global Unions fully supports the key commitments of the GCM in this area:

- Migrant workers should have equal treatment with nationals, including social protection floors, in keeping with the ILO Social Protection Floor Recommendation No 202 (2012).
- Bilateral, regional and multilateral social security agreements should provide for the portability of social security entitlements for migrant workers at all skill levels, including pensions, health care and other earned benefits.
- National social security authorities should designate focal points in countries of origin, transit and destination to facilitate portability requests, in particular addressing difficulties that women and older persons may face in accessing social protection or welfare funds.

The BLMAs generally provide for portability of social security benefits although in practice there are often significant difficulties in realising this right. One good practice is the German-Philippines Bilateral Labour Agreement on the Deployment of Filipino Health Professionals to Germany 2013 (the Triple Win Programme). To complement the BLMA, Germany and the Philippines also signed a Social Security Agreement which entered into force in June 2018. The Agreement allows individuals to aggregate pension insurance periods of coverage in Germany and the Philippines in order to qualify for pension benefits.

This agreement is the first of its kind to give trade unions affiliated to the PSI direct oversight of the work of a BLMA. A Joint Monitoring Committee made up of ministries of labour, health, and PSI affiliated trade unions from Germany (Ver.di) and the Philippines (PSLINK), monitor the implementation of the agreement, including through on-site visits and dialogues in the Philippines and Germany. According to PSI and its affiliates, experience shows that the participation of trade unions and employers is essential to concluding effective BLMAs.<sup>65</sup>

Migrant women workers who are in precarious or informal work, or in an irregular status, are the most vulnerable. Intersectionality between gender, race, religion and migration status exposes diverse groups to different sets of risks. In Malaysia, unions have been invited to provide inputs into the draft Domestic Workers' Regulation and there has been some dialogue with the Ministry of Manpower on employment law reform, leading to greater collaboration between the government, embassies of sending countries and trade unions. Following a long-standing campaign by the Association of Indonesian Migrant Domestic Workers (PERTIMIG) and the Association of Filipino Domestic Workers (AMMPO), the Ministry of Human Resources announced that social security and employment insurance will be extended to domestic workers, including migrant domestic workers, from June 2021. AMMPO has organised post-arrival training programmes together with the Philippines embassy and has produced a 'Safe Migration' guide for Filipino Migrant Domestic Workers in Malaysia.<sup>66</sup>

63 'Migrant access to social protection under Bilateral Labour Agreements: a review of 120 countries and nine bilateral arrangements' Geneva, ILO 2017 available at: [https://labordoc.ilo.org/discovery/fulldisplay/alma994955792602676/41ILO\\_INST:41ILO\\_V2](https://labordoc.ilo.org/discovery/fulldisplay/alma994955792602676/41ILO_INST:41ILO_V2)

64 'Ensuring migrants' access to social security,' ITUC Economic Briefing 06.12.21 available at: [https://www.ituc-csi.org/IMG/pdf/ensuring\\_migrants\\_access\\_to\\_social\\_protection.pdf](https://www.ituc-csi.org/IMG/pdf/ensuring_migrants_access_to_social_protection.pdf)

65 See PSI 15 July 2015: <http://www.world-psi.org/en/psi-symposium-german-philippines-bilateral-agreement-health-workers>

66 A Guide for Filipino Migrant Domestic Workers in Malaysia – Safe Migration Book, published by IDWFED 01.09.2021 available at: <https://idwfed.org/en/updates/italy-domina-conference-the-impact-of-domestic-work-in-the-countries-of-origin>



### **Objective 23: Strengthen cooperation and global partnerships for safe, orderly and regular migration**

In the guiding principles, the GCM recognises the role of trade unions, along with civil society, in its implementation. The participation of trade unions and civil society in the Working Groups has provided constructive opportunities for exchange and trade unions have contributed to the development of new guidance materials of the UN Network on Migration. However, the political space for trade unions to contribute meaningfully at the Regional Consultations must be strengthened through transparent consultation mechanisms. Furthermore, the ILO's normative framework, tripartite structure, institutional knowledge and operational capacity should be fully recognised and utilised in the implementation, follow-up and review process.

Most governments have yet to create effective social dialogue mechanisms for the full participation of trade unions, without which it will not be possible to implement the GCM at national level. The examples provided in this report of trade union actions, often working together with migrant and other civil society organisations, illustrate the fundamental role of trade unions in promoting migrant workers' rights and the importance of partnerships with governments, the ILO, MNCs and other employers, and sending countries. These partnerships need to be multiplied and extended and should be reflected in consistent and meaningful dialogue with trade unions in the GCM consultations and review processes.

## **Conclusions and Recommendations**

Migration is undeniably a labour issue as migrant workers make up the vast majority of international migrants. Ensuring the protection of migrant workers' rights is essential to achieve trade unions' goal of decent work for all. The adoption of the GCM in 2018, with its principles and commitments to uphold the human rights of migrants, marked a recognition of the need to address the global governance and national policy failures that have enabled the criminal exploitation of migrant workers worldwide.

This report has focused on the role of trade unions in protecting migrant workers' rights, with a particular focus on the situation over the last four years. It reviews work carried out under a number of GCM objectives which are of particular relevance to trade unions.

In order to minimise adverse drivers (objective 2), the CGU has called for governments to invest in human-centred development models and quality public services, and to ensure that recovery plans are developed through social dialogue and aligned with the Paris Agreement, the UN SDGs and ILO labour standards. Under the right conditions, migration can contribute to sustainable development but should not be pursued as a strategy to promote sustainable development.

Trade unions have called for States to give priority to scaling up access to regular migration pathways (objective 5) with full workers' rights and the right to family reunion and to open opportunities for irregular migrants to regularise their status. Trade unions have engaged actively in exposing the abuses of exploitative recruitment agencies and carried out a number of studies to highlight the scale of abuse. They have set up a range of information and advisory services and created alliances between trade unions in destination and origin countries.

In destination countries, trade unions have supported migrants to form and join associations or trade unions, where permitted, and set up advice centres and provided legal assistance. In particular, they have focused on women workers in precarious employment and the need to address harassment and gender-based violence. They have advocated for reforms of labour laws and immigration laws to ensure the right to



freedom of association and collective bargaining and promoted social dialogue with relevant government authorities to further the goals of decent work (objective 6).

Health sector trade unions have been crucial in fighting for safe and decent working conditions, including access to PPE so they can continue to deliver care and treatment and have condemned the unacceptable levels of mortality of migrant health workers, who faced greater vulnerability to infection from COVID-19 as well as an increase in racist and gender-based violence. Education unions are long-standing advocates of inclusive education systems and have carried out advocacy and a range of practical actions to welcome migrant and refugee children, both in Europe and in refugee and IDPs camps as well as support refugee and migrant teachers (objective 15 and 16).

Trade unions have provided practical advice and support on skills recognition for migrant workers, in differently skilled sectors such as health care and teaching and in construction and hospitality. The CGU has carried out advocacy to ensure that the GSPMs promoted as part of the GCM ensure compliance with decent work, labour rights and align with the SDGs, particularly as concerns critical skills in areas such as health and education. The global unions are working with affiliates in relevant countries to build their understanding and to engage with the GSPMs (objective 18).

Access to social protection for migrant workers in destination countries is a long-standing demand of trade unions, which was included in the GCM with reference to the ILO Social Protection Floors Recommendation No 202 (2012). Trade unions have advocated for reforms and provided practical assistance to migrants in accessing their rights. The COVID-19 pandemic has only strengthened the argument for all migrant workers, regardless of status, to have access to basic social protection and health care (objective 22).

Finally, while the GCM recognises the role of trade unions in the implementation of its objectives, in practice, trade unions face many barriers to their effective participation. Some of the most effective outcomes for migrant workers have been achieved through partnerships between global trade unions and their national affiliates, MNCs, governments, and the ILO. These working partnerships need to be multiplied at national level and reflected in regional and global forum (objective 23).

## Recommendations

**#1 – Collective worker voice and participation.** Trade unions have demanded a transparent Compact process that gives workers a seat at the table and ensures our freedom to stand together and receive a fair return on our work. This requires authentic social dialogue and guarantees to adhere to our Fundamental Principles and Rights at Work.

Workers' agency is fundamental to achieving fair migration and decent work for all, so it is an alarming and telling flaw that the UN declaration fails to even reference freedom of association or the right to organize and collectively bargain. Freedom of association is an enabling right that shifts the power dynamics so that workers can protect and advance their interests through collective actions and negotiations with employers. Without realizing this shift, we can never hope to reverse entrenched patterns of discrimination and exploitation against migrant workers. Removing barriers to organizing is critical to defending excluded workers of all sorts, because unions provide concrete mechanisms to enforce labour standards and remedy disputes.

We urge States to heed the Compact's call to engage in social dialogue at the national level with trade unions and workers' organizations to further the development of decent work and fair migration. The UN declaration should also reaffirm the importance of the ILO's tripartite mechanisms and conventions as necessary foundations for building a fair migration governance framework.

**#2 – Commitment to decent work, quality public services, education and sustainable development.** Trade unions have demanded a Compact process that protects and empowers workers in countries of origin, transit and destination, and policy coherence that produces positive labour market outcomes for all working people, regardless of race, gender or migration status.

The UN progress declaration rightly recognizes decent work as an important benchmark for regular pathways. However, States must also make the promotion of decent work the driving principle for addressing root causes of migration and spurring sustainable development. Decent work policies enshrine universal rights, generate economic growth, promote public health and social cohesion, and reduce racial, gender and status inequities that undermine our democratic institutions. Unions are calling for investment in inclusive and quality public services and education. Trade strategies need to focus on the creation of decent, climate-friendly jobs, accompanied by just transition measures to promote resilience and guarantee that no one is left behind in dealing with the impacts of the climate crisis and in industrial transformation processes. These shifts are essential to reducing the root causes that force families to migrate as a means of survival.

**#3 – Non-discrimination mandates.** Trade unions have demanded commitments to combat xenophobia and racism, end all forms of discrimination, and ensure equal treatment and access to justice and quality public services and education for all.

The pandemic has revealed the essential nature of work that has long been invisible and undervalued, much of which is performed by migrants; a significant percentage of these are women migrant workers, such as those in the health and social care and domestic work. This amplifies the imperative for States to recognize the principles of equal protection and equality of treatment for all workers, regardless of their status or whether they are in the informal or formal economy. We call for policy coherence that incorporates migration governance into broader economic, social, racial and gender justice initiatives. Migrants, whatever their race, class, gender identity, immigration status or sector, must be part of social protection policies, not just upon return to their origin countries as noted in the UN declaration, but also in the destination countries in which they work. Migrant workers must also have access to concrete status protections when they exercise their rights and help to enforce labour laws.

The UN declaration recognizes the systematic violations of migrant workers' rights, including rampant issues of wage theft. The accompanying recommendation however must go further in calling for the development of justice mechanisms that allow migrants, whether still in the destination country or after return to their country of origin or a third country, to obtain remedies easily and fairly for the systematic violations they face in the workplace. The concept of "portable justice" should be part of the implementation of the Compact moving forward, and states should task the ILO with using its tripartite mechanisms to develop international standards around remedying wage theft and other routine workplace violations for migrants.

**#4 – Diverse channels for regular migration.** Given that serious humanitarian concerns gave rise to the Compact, trade unions have demanded that the implementation process prioritize regularization schemes and increase humanitarian resettlement options and other rights-based channels—which allow migrants the freedom to move, settle, work, and fully participate in society—over expanding temporary or circular work programs.

Not all regular pathways are fair or equitable. We commend the UN declaration recommendation to redouble efforts to promote better regular pathways, including the call for regularization of undocumented migrants and family unification. In the context of rapidly escalating mass human displacement, much of which is driven by the climate crisis, the imperative to increase resettlement commitment and capacity grows ever more urgent. Now is the time to emphasize and expand humanitarian pathways for climate migrants and others in ways that ensure full worker rights, facilitate social and family cohesion, and provide options for permanent residence and meaningful participation in civic life.

**#5 – Just models for labour migration and adherence to international standards.** Trade unions have demanded a new approach to labour migration that empowers migrants and reduces employers' control over the process. This framework must include binding regulation of the recruitment industry and be guided by ILO's fair recruitment principles and guidelines to ensure equity and to safeguard rights and standards for all.

In the current text of the UN progress declaration, the labour migration focus is problematically narrow, emphasizing "skills recognition" instead of centring workers' rights and agency. States must take steps to fundamentally restructure labour migration pathways so they end the commodification of migrant workers and the systematic exploitation by recruiters and employers. Temporary labour migration programs must not be positioned as a false solution to origin country development or to humanitarian crises, climate displacement, or other forms of forced migration. Instead, labour migration pathways must allow workers to fully exercise the freedom of association, as well as the option for family unity, permanent residency and eventual citizenship if they desire it.

As workers, we continue to demand that the Compact be firmly based in international human rights as well as humanitarian and labour law, requiring governments to commit, explicitly, to aligning their legislative frameworks with the relevant instruments. It must promote the ratification of the ILO core conventions as well as the migration-specific conventions. The ILO should be the lead UN agency on the governance of labour migration, as it has a rights-based, constitutional mandate and expertise in labour.





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