

## Migration: Industrialized countries are the main winners

*Trade unions do not regard migrant workers as a “problem”. Rather, they are seen as a consequence of unjust world economic policies. Most people stand to lose from the host countries’ refusal to ratify the international instruments guaranteeing equality of treatment between migrant and local workers.*

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The globalization of the economy has abolished many of the barriers to the international transfer of capital, technology and enterprises. But there is one big exception to this great opening-up – labour. Although they are the most directly concerned, workers certainly do still encounter frontiers, which restrict their basic freedom of movement. What is worse, those who do manage to overcome the obstacles placed in their path at the borders are increasingly deemed a “problem” by the great sages of globalization. The “migrant labour question” has become a hot topic for the big international institutions. It gives rise to fears within certain sections of public opinion and to repressive attitudes on the part of many governments. But to the trade unions, migrant workers are not a problem. They are an inevitable consequence of globalization, the result of policies that cause the growing gap between the few wealthy countries and the vast majority of poor ones.

While it is every human being’s basic right to cross the borders artificially created by mankind, migration by workers should always be a matter of free choice, and not an act forced upon them by poverty and despair, as is generally the case at present. Over the past few decades, most of the industrialized countries, particularly

those in Europe, have mainly adopted a closed-door policy towards immigrants from poor countries who come to seek their fortune. Thus, by drastically tightening its border controls, “Fortress Europe” thought it could keep out those who are sometimes pejoratively called “economic refugees”. These government policies aimed at combating illegal immigration have boosted the profits of the networks that smuggle or traffic in human beings, but have certainly not stopped migrants from arriving in Europe, where tens of thousands of “undocumented” workers live clandestinely, at the mercy of shady employers. In this respect, it should be noted, contrary to a widespread belief in the Western countries, the great majority of migrants do not move to that part of the world, but rather to other regions of their own continents. They are often low-skilled workers, including a growing proportion of women.

### Lack of political will

Underpayment, poor working conditions, multiple discrimination – all too often, migration means exploitation. This is particularly true of female domestic workers, who are more vulnerable because of their iso-

lation, their direct dependence and their continuous presence at the workplace. On the principle that all workers should be treated equally, the International Confederation of Free Trade Unions (ICFTU) has thrown its full weight behind the struggle for the ratification and application of three ILO Conventions that concern migrant workers. These provide for equality of treatment between locals and migrants as regards working conditions, pay, social security and trade union rights. They are Conventions No. 111 on discrimination (employment and occupation), No. 97 on migration for employment and No. 143 on migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers. Unfortunately, the last two of these Conventions have not drawn many ratifications – just 18 for Convention No. 143 (including only four OECD countries) and 42 for Convention No. 97. Is it really asking too much of the so-called “host” country governments that they should, by ratifying these Conventions, guarantee straightforward equality of treatment for all workers on their territories?

Governments’ lack of political will is even more graphically illustrated by the slow pace of ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.<sup>1</sup> Adopted with much pomp and circumstance by the UN General Assembly in 1990, it only recently (December 2002) obtained the twentieth ratification needed to enter into force. Most of the ratifying countries so far are exporters of labour. This Convention guarantees the basic rights that make migrant workers equal to all others, and this is an insistent demand of the trade union movement as a whole. The ICFTU and its affiliates are playing an active part in the international campaign to increase the number of ratifications and to secure the full implementation of this instrument. The unions are also asking governments to ensure that, at the very least, its key provisions are put into effect without delay on their territories, whether they have ratified the Convention or not.

## **Migrants banned from unionizing!**

One of the most effective ways of preventing migrant workers from being exploited is to allow them to exercise their right to join a union without hindrance. Two of the ILO’s core Conventions – the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – guarantee these rights.<sup>2</sup> They have been ratified by 141 and 152 countries respectively, but many instances show that their application leaves much to be desired. The ICFTU’s latest annual report on violations of union rights notably criticizes Malaysia, whose Human Resources Minister declared that foreign workers are not entitled to join unions – even though the law only prohibits them from holding union office. One of the conditions laid down in the work permits issued to foreign workers by the Malaysian authorities is that they may not join a union. In its defence, the Government maintains that migrants are protected by the labour courts, but this protection is far from effective, as is shown by the tardiness of the courts’ rulings or the failure to implement them.

Even in some countries that have ratified Conventions Nos. 87 and 98, such as the Philippines, foreign nationals may neither form nor join a union unless a reciprocal agreement with their country of origin states otherwise. In Gabon, the provisions of the Labour Code are not applied in sectors and regions where there are large concentrations of migrant labour. Migrant workers cannot exercise their right to organize without suffering reprisals from their employers, but employment conditions, particularly wages, health and safety regulations and dismissal procedures, are far less favourable for this major migrant workforce than for the Gabonese workers. Things are even worse in Oman, Qatar, Saudi Arabia and the United Arab Emirates, where migrant workers constitute the majority of the workforce (including many women) but unions and other forms of workers’ organization are prohibited.

## Who could resist the temptation?

Public opinion in Western countries sometimes fears – quite wrongly – that the arrival of immigrant workers will pose a threat to jobs and security. However, all this needs to be thought through to its logical conclusion: bearing in mind the resources currently at their disposal for travel, unless wealth is shared out more fairly between all the world's inhabitants, the poorest will go on taking all possible risks in order to reach the Western Eldorado, regardless of how strictly its borders are controlled. To explain this reality more clearly to Western public opinion, just picture the following situation: if Westerners earning 1,000 euros (€) (approximately US\$990) a month could be convinced that by trying their luck in some far-off land, they would have a chance of increasing their income ten times over, in other words of earning €10,000 (US\$9,900) a month, how many of them would resist the impulse to go and spend a few years there, even if it meant doing less prestigious jobs than back home? This is the kind of temptation that haunts the nights of many people in the less well-off countries, people who earn perhaps €50 or €100 a month and who know that by going to a developed country they will have a chance of earning €1,000. The difference is that the migrant workers are often living in abject poverty in their countries of origin, which is not generally the case for Western workers earning €1,000 a month.

Some employers see the arrival of migrants as an opportunity to hire workers at lower wages and worse working conditions than for local workers. They know that migrants, confused by their new environment, can be more easily manipulated than local workers. Effective legal guarantees are therefore needed concerning equal pay and working conditions. Without such safeguards, recourse to foreign labour will in practice lead to an erosion of labour standards and a deterioration in conditions for all workers, with the attendant risk of increased racism within the host society. But legal protections will not suf-

fice to combat the discrimination that all too often restricts employment opportunities for migrant workers. In Europe, for example, numerous studies have shown that despite legislation, migrant workers are more vulnerable to dismissal and receive fewer social benefits than do others. Of course, this is less true of migrant workers who are union members, as the unions inform them about their rights.

## Host countries are the big winners

Faced with a chronic shortage of labour in several sectors of their economies, Western countries have now reopened their borders to certain kinds of worker, generally those who are skilled or highly qualified. However, trade unions insist that this reopening of legal immigration should not serve as a pretext for greater repression against clandestine migrants. They have the same rights as all other workers and the union movement is campaigning for their situation to be regularized. That said, as a result of this new immigration policy in Western countries, thousands of Indian information technology specialists as well as, for example, Filipino and South African nurses have left their countries to take up employment in Europe, especially Germany and the United Kingdom. These migratory flows are often portrayed as benefiting everyone: the host countries, which thus receive the manpower that they need in order to develop their economies and maintain their prosperity; the countries of origin, which in some cases actually make great efforts to encourage such migration, so that they can subsequently benefit from these workers' remittances in hard currency (transfers amounting to US\$73 billion a year, according to World Bank estimates); the workers themselves, who acquire experience and earn a higher wage than they would back home; and their families, who receive a proportion of these wages.

This looks like a very promising mechanism, but in fact there are several spanners in the works. One of them is the "skills drain" suffered by the countries of origin.

Frequently evoked but never solved, this problem is highly visible in the Philippines, a country that trains many nurses with the aim of enabling them to go off and work in the West. In rural regions of the Philippines, it is now difficult to recruit nurses because most of them are obsessed with finding a job in a Western country. How many families in the Philippines today have been torn apart by the departure of a mother or a father for the West? Who cares about the rise of excessive materialism amongst the relatives back home when they receive the currency sent by the migrant? Sending its native population abroad is not a good way for the Philippines to curb unemployment and raise its standard of living, because the money that they remit serves mainly to make the balance of payments look better. Ultimately, these policies simply produce greater inequality of development. The same goes for all the sending countries.

Sometimes, there is also the problem that migrant workers' qualifications are not recognized in the host country, where they consequently may have to take jobs that are underpaid in relation to their skills. All very profitable for their employers, who thus have a highly skilled workforce at all hierarchical levels, but is this really a coherent model of migration management? Migrant workers also have to face the mendacious arguments peddled by the parties of the far right. Contrary to these xenophobic theories, migrant workers often put more into the economy of the host country than they get out of it. For example, several studies show that a foreign household living in Switzerland makes an annual contribution equivalent to 3,900 Swiss francs (US\$2,600) to the country's social security funds and that in a country

like the United States, immigrant workers pay 18 times more in tax than they receive in social benefits. And this even though the migrant workers' home countries have borne all the costs of their initial training.

Lost within a system entirely subordinated to the law of supply and demand, and deprived of any possible assistance from international agreements, most migrant workers are currently left to fend for themselves. They therefore fall prey to people smugglers who are in cahoots with exploitative labour placement networks, supplying a workforce which is sometimes actually ordered, in small quantities, by the host country. The legitimate aspirations of the workers themselves, who are most directly concerned, are almost never taken into account. Despite the benefits that they derive from them, all too many host countries still balk at granting migrant workers and their families the rights to which their entitlement is internationally recognized, notably the freedom to join a union, the payment of insurance, pensions and benefits, and the right of family reunification. These rights can only be fully recognized if migrations by workers become legal. The entire trade union movement will continue to put all its strength into the campaign to make these aims a reality.

## Notes

<sup>1</sup> The full text is available online in English at [http://www.unhchr.ch/html/menu3/b/m\\_mwctoc.htm](http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm) and in French at [http://www.unhchr.ch/french/html/menu3/b/m\\_mwctoc\\_fr.htm](http://www.unhchr.ch/french/html/menu3/b/m_mwctoc_fr.htm)

<sup>2</sup> Article 2 of Convention No. 87 states: "Workers and employees, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization."

## International Confederation of Free Trade Unions

### No to racism and xenophobia! Plan of action for trade unions

#### Basic principles

The following are the basic principles underpinning the trade unions' fight against racism, racial discrimination, xenophobia and related intolerance:

- Trade unions stand against racism and xenophobia as a matter of fundamental principle. The promotion of human rights, equality and diversity is an integral part of the trade unions' daily struggle for freedom, equality and justice for all.
- Trade unions take an explicitly anti-racist approach in the development and implementation of their policies, programmes and action.
- Trade unions recognize the central role to be played by those affected by racism, xenophobia and ethnic discrimination in developing, implementing and monitoring relevant policies, programmes and activities, paying special attention to the most vulnerable groups: women, youth and persons with disabilities.
- Trade unions recognize the crucial importance of integrating a gender perspective when developing and implementing policies, programmes and activities in the fight against racism and xenophobia, in order to address more effectively the issue of multiple discrimination against women.

The ICFTU 17th World Congress (Durban, South Africa, April 2000) re-affirmed the solid commitment of the trade unions

to combat racism and xenophobia, in every form, shape and place. The Congress delegates represented the 156 million working women and men members of the ICFTU's 221 affiliated national centres in 148 countries and territories. In accordance with the Congress resolution, an International Workshop on 'Trade Unions Fighting Racism and Xenophobia' (Aylmer, Canada, 5-9 May 2001) drew up this Plan of Action for the trade unions, at national, regional and international levels, to fight racism and xenophobia more effectively in our communities, in the labour market, in the workplace and within the trade unions.

#### Plan of action

##### *Combating racism and xenophobia in our communities and in society*

##### *At national level*

Trade unions urge governments to:

- ratify and implement the UN Convention on the Elimination of All Forms of Racial Discrimination (1965);
- ensure equality of treatment for peoples of colour, ethnic minorities, indigenous peoples, migrants and refugees as regards access to social services and provisions (health, housing, education, etc.);
- grant political rights for migrants and refugees;
- provide free language training for migrants and refugees, with special attention to women, together with a training allowance;

- set clear targets for the appointment of people of colour and indigenous peoples to senior levels of the civil and public services and the judiciary.

Trade unions call on the media to play a positive role in sensitizing the general public to the nefarious impact of racism, racial discrimination and xenophobia on the whole of society.

Trade unions are committed to:

- undertaking awareness campaigns on the issue of racism, xenophobia and religious intolerance through demonstrations, public meetings, assemblies, the press and media, etc., at the same time raise public awareness of the vital contribution that migrants, people of colour, indigenous peoples and ethnic minorities bring to society, enriching our cultures and strengthening our economies;
- networking with and actively supporting organisations of migrants, ethnic minorities, peoples of colour and indigenous peoples, taking into account the specific and multiple discrimination against women;
- actively campaigning for reform of the educational system and revision of school textbooks and education materials to ensure a non-racist perspective and to promoting understanding and appreciation of different cultures.

#### *At regional and international levels*

The ICFTU, GUFs (Global Union Federations) and their regional organisations will:

- facilitate exchange of good practices to combat racism in our communities and in society amongst affiliated organisations;
- call for the protection of the civil rights of prisoners, taking into account the over-representation of people of colour within the prison system in many parts of the world.

### ***Combating racism and xenophobia in the labour market and in the workplace***

#### *At national level*

Trade unions urge governments to:

- ratify and implement international Conventions, notably the International Convention on the Protection of Migrant Workers and Members of Their Families; the core ILO Conventions, in particular the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Equal Remuneration Convention, 1951 (No. 100);\* the Indigenous and Tribal Peoples Convention, 1989 (No. 169); the Migration for Employment Convention, 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and to fully respect and promote the ILO Declaration of Fundamental Principles and Rights at Work and its Follow-Up (1998);
- introduce and implement mandatory national affirmative action legislation and programmes to end discrimination against and promote equality of opportunity and treatment for migrants, workers of colour, indigenous peoples and ethnic minorities;
- actively promote and provide resources for campaigns and programmes to combat racism in the labour market and at the workplace, which would include, i.a. race-awareness courses for workers and employers;
- ensure strong monitoring and enforcement frameworks for new legislation and programmes;
- establish a national observatory to monitor the impact of racism on the labour market, disseminate best practices and provide regular reports to workers and their trade unions, as well as to employers and companies.

Trade unions must:

- negotiate the inclusion of clauses in collective agreements aimed at end-

ing discrimination against and ensuring equal opportunities and treatment for migrants, workers of colour, indigenous peoples and ethnic minorities, i.a.:

- provision of vocational and long-term training
  - paid leave for language training, including in the workplace
  - implementation of affirmative action measures
  - leave for religious and cultural reasons
  - clear grievance procedures in dealing with and compensating victims of racism
  - anti-racism and cross-cultural education and training for all workers and staff, including at management level
- work for recognition of foreign credentials and qualifications; development of bias-free national standards of assessment for various professions and occupations;
  - lobby for strong and effective proactive labour legislation, including employment equity and pay legislation; burden of proof to be placed on the employer/company accused of discrimination;
  - network with organisations and/or groups of workers facing multiple forms of discrimination with a view to developing a joint strategy and action programme;
  - seek a partnership approach with employers to combat workplace racism;
  - call for the establishment of specific work and career development programmes for workers of colour, indigenous peoples and ethnic minorities to prepare for improved promotion opportunities at all levels;
  - set up mentoring programmes involving trade unionists to assist migrants, indigenous peoples, workers of colour and ethnic minorities to access trades, professions and the labour market in

general; particular attention to be paid to women and youth;

- support language training initiatives for migrant workers, whilst at the same time counter attempts by employers to use the language issue to discriminate on racial grounds.

### *Migrant workers*

Trade unions must:

- urge governments to legalize undocumented workers;
- lobby for legislation to protect those working in the underground economy;
- work with communities to provide support and legal assistance for undocumented workers;
- undertake special campaigns to organize migrant workers, including those who are undocumented;
- be actively involved in shaping immigration and migration policies in order to protect the interests of working peoples and their families;
- if from the sending and receiving countries, work jointly to protect and defend rights of migrant workers (through ICFTU and its regional organisations);

### *At regional and international levels*

The ICFTU must:

- lobby strongly for the establishment of an international observatory for monitoring the impact of racism in the labour market, share best practice and provide regular reports to workers and their trade unions;
- strengthen cooperation with the ILO on the campaign for the ratification and effective implementation and monitoring of ILO conventions;
- work closely with international non-governmental organizations (NGOs) which defend and promote the rights of peoples of colour, indigenous peo-

ples, migrants, refugees and ethnic minorities;

- in collaboration with GUFs, open dialogue with governments and academics on the establishment of international standards for the recognition of foreign credentials, qualifications and training;
- with the GUFs, call on the UN to organize a North/South summit on migration.

### **Transforming our unions through equality in diversity**

#### *At national level*

Trade unions must:

- be aware at all times of the primary role of those directly affected by racism in developing, implementing and monitoring trade union anti-racism policies, strategies and programmes;
- integrate anti-racism awareness sessions in all trade union training and education policies, programmes and activities at all levels;
- democratize union structures for the full integration of people of colour, migrants, ethnic minorities and indigenous peoples at all levels in order to strengthen union policy development, organisation and mobilisation of workers, and implementation of policies and programmes;
- develop and implement positive action programmes to remove barriers to access to leadership positions of workers of colour, migrants, ethnic minorities and indigenous peoples;
- set up and strengthen special structures to combat racism and xenophobia;
- develop and implement mentorship programmes for target members to give them support and integrate them into the movement;
- implement positive action measures – including internal equity audit – of

union staff, both executive and administrative;

- coordinate strategy for affiliates to carry out joint work with anti-racist groups at the community level.

#### *At regional and international levels*

The ICFTU and its regional organizations undertake to:

- disseminate the conclusions of the International Workshop and the Plan of Action to affiliates, governments and community groups with the purpose of developing joint action;
- establish an ICFTU/GUF anti-racism body (task force/committee/working party), with adequate resources, including staffing, to carry out its functions and to meet on a regular basis;
- organize an international anti-racism conference within the next three years;
- actively promote the exchange and dissemination of good practices and case studies among affiliates;
- assist unions in drawing-up anti-racism guidelines and plans of action;
- actively promote diversity in decision-making bodies and staff, including through adoption of positive action measures;
- implement and monitor recommendations of the 7th World Women's Conference of the ICFTU (Rio de Janeiro, May 1999) under the section: "Organizing for Equality: Migrants and ethnic minorities";
- ensure that the anti-racism dimension is an integral part of the ICFTU and GUF policy and action on child labour;
- ensure that the anti-racism dimension is an integral part of the work of the ICFTU Youth Committee at all levels, in particular in involving fully young workers in the fight against racism, xenophobia and related intolerance.



## Note

\* The so-called core labour standards are contained in eight Conventions: the Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective

Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182).

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