

**Global Migration Group Symposium:  
Overcoming Barriers: Building Partnerships for Migration and Human Development  
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**Session 2: Partnerships for Effective Protection**

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***Introduction***

The global economic crisis had a tremendous impact on the lives of working women and men. According to International Labour Organization (ILO) estimates, the number of jobless worldwide reached nearly 212 million in 2009 and unemployment is likely to remain high through 2010. The share of workers in vulnerable employment worldwide is estimated to reach over 1.5 billion, equivalent to over half of the world's labour force.

Against this backdrop, advocacy for and enforcement of the rights of migrant workers remains a real challenge as States responded with restrictive and selective immigration policies that risk increasing the rate of irregular migration or justifying the excuse to resort to low-paying temporary work leading to increased vulnerabilities and exploitation of temporary migrants and low-wage native workers. Incidents of discrimination and xenophobia against migrant workers and their families are on the rise in societies without effective social safety nets, exacerbated by the competition for scarce job opportunities.

***How can trade unions, together with other social partners, contribute to ensuring the protection of migrant workers' rights in all sectors of the labour market? What are, in this endeavor, the challenges for trade unions associated with temporary and irregular migration?***

First and foremost, before trade unions and other social partners and civil society could come in, it is of prime importance that States abide by their obligations to set the international and national framework of protection for migrant workers' rights. This is what we in the Global Unions, consisting of the International Trade Union Confederation (ITUC) and the 10 Global Union Federations that directly represent millions of migrant workers within our membership, are calling as the ***architecture of protection of human and trade union rights***. This architecture of protection includes:

- UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- ILO Conventions on Migrant Workers, C97 and C143;
- ILO Convention 181 on Private Employment Agencies;
- ILO Declaration on Fundamental Principles and Rights At Work and its follow up;
- ILO Multilateral Framework on Labour Migration;
- Convention on the Elimination of All Forms of Discrimination Against Women, (CEDAW);
- Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- Convention on the Rights of the Child (CRC);
- Durban Declaration and Programme of Action of the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

It is worth mentioning this over and over again so that States are constantly reminded of their obligation to promote migrant workers' rights by ratifying and fully and effectively implementing these international commitments.

At the same time, we welcome two new developments that came in this year which will also contribute to strengthening the protection regime, namely:

- The newly adopted WHO Code of Practice in the International Recruitment of Health Personnel (WHA, 2010).
- The standards-setting for Domestic Workers in the agenda of the International Labour Conference in 2010 and 2011.

The WHO Code of Practice, though voluntary, sets the global principles for the international recruitment of health workers and also aims to strengthen health systems of developing countries.

Standards-setting for Domestic Workers aims to establish an ILO Convention and Recommendation on Domestic Workers, which would finally bring domestic workers out of the shadows of vulnerability and non-recognition of the work that they do into establishing a minimum set of labour standards and protection.

When applied fully and effectively, these international commitments, both binding and non-binding, offer solutions to addressing the challenges posed by temporary and irregular migration.

In order to do this, social dialogue and multi-stakeholder cooperation is key.

Below are a number of elements for consideration.

*(Note, however, that we do not have to 're-invent the wheel.' We have to build on the international agreements that we already have, to strengthen them and not to divert from them).*

- The ILO Multilateral Framework on Labour Migration provides (1) a rights-based approach for designing national migration policies and practices; (2) informed and transparent migration administration; (3) institutional mechanisms for dialogue, consultation and cooperation; and (4) action against discrimination and xenophobia. The framework provides specific guidelines and practical recommendations that can be applied in all stages of the migration process, i.e. from pre-departure, post-arrival, employment, integration, return and re-integration.
- Consultative frameworks must be established at national, regional and international levels to allow for the genuine participation of trade unions, employers and civil society organizations in policy dialogues on migration and development. This means institutionalizing consultations with social partners and civil society in governmental and intergovernmental dialogues.
- The tripartite consultative framework of the ILO, involving governments, employers' representatives and trade unions should be fully utilized for framing migration policies at national, regional and global levels. The ILO's core competence in the application of

standards for the protection of the rights of migrant workers should be recognized and utilized.

- The “shared prosperity model” (Avendaño, 2009) which focuses on improving productivity and quality, limiting wage competition, strengthening labour standards, particularly the right of workers to organize and bargain collectively and providing social safety nets and high quality lifelong education for workers and their families. In other words, it means ensuring that workers migrate with full rights and social protection. The process resembles a ‘top down’ quantitative analyses complemented with ‘bottom up’ assessments from professional associations, industry experts, labour organizations, and detailed case studies of particular industries, occupations and places. It considers using a commission-driven system that will collectively determine and address labour shortages in light of the economic situation and real labour market needs. Such model is being developed between AFL-CIO and the Economic Policy Institute in the USA (Ibid, 2009).
- Trade union role in organizing and representing migrant workers is critical. But we first need to remove legislative barriers to freedom of association for all migrant workers, including temporary and irregular migrant workers. Within the trade union movement, we are making serious efforts to review our trade union structures in order not just to encourage membership of migrant workers, but also building leadership among them, particularly among women migrants, within trade union structures. It has been seen that migrants who are able to exercise their trade union rights enjoy better pay and working conditions and are able to integrate fully in their host societies. In a study by Schmitt (2010), in the USA, where immigrant workers comprise over 15% of the workforce and almost 13% of unionized workers, union representation has substantially improved the pay and benefits received by migrants. The study shows that on average, unionization raised immigrants’ wages by 17%. Unionized migrant workers are likely to have health and retirement insurance coverage as compared to non-unionized migrant workers.
- We need to pursue and further refine good practices that are in place such as, framework agreements and codes of practice in international recruitment, union-to-union bilateral agreements for protection of workers’ rights, migrant centres and help desks, pre-decision kits, union passports, portable union membership and services and partnership agreements between unions, migrant civil society and other stakeholders.

***How has the international dialogue on migration and development changed the environment for networking and partnerships on the protection of migrants’ rights? Has it created new ideas and opportunities for engagement with different stakeholders?***

The trade union movement has been very clear about its concerns on the Global Forum on Migration and Development (GFMD). We maintain the position that the GFMD process needs to be coordinated under the auspices of the United Nations in order to ensure transparency, democracy and legitimacy. As it is, the GFMD is informal, voluntary and non-binding and its outcomes are not known to the public. Without knowing the outcomes, how can we identify follow up actions and measure impacts? How can there be a changed environment for networking and partnerships when the civil society days (CSD) component of the GFMD has no direct link to the GFMD itself? If real partnership is to happen, it has to start with social dialogue bringing governments, employers,

migrant workers around the table. We are not seeing this in the GFMD. The mechanisms set in place within the UN and the ILO allow for institutionalized participation of trade unions and civil society organizations in human and trade union rights issues. This is clearly lacking in the GFMD.

Having said this, this process of stakeholder consultation within the Global Migration Group offers a bit of hope and expectation of more leadership within the international community to steer the international dialogue on migration and development back into the framework of the United Nations.

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