



## **The UN High Level Dialogue on Migration and Development must deliver on a rights-based approach to migration**

When the international community meets at high level in September 2013 to discuss migration issues, world leaders must react with the sense of urgency that the situation of migrant workers requires. Despite their well-documented positive contributions to societies, migrant workers are victims of discrimination, abuses and violations of their rights. Inequality, xenophobia, exploitation, forced labour and human trafficking are on the rise.

Reversing this problematic trend requires courageous political action. It means challenging the current pragmatic and deregulatory approach to labour migration which privileges economic imperatives and special interests over workers' human rights and social justice. It means the creation of decent jobs and quality public services in order to promote equality and prosperity for all, so that migration becomes a choice and not a dire necessity.

The UN has the responsibility to promote a rights-based approach to migration at all levels. Its High Level Dialogue (HLD) must be the opportunity to reaffirm that responsibility and to make significant progress in realizing the human rights of migrant workers.

### **1. The HLD must recognize that most migration is in search of decent work**

Ninety per cent of migration flows are about employment. But the benefits of labour migration cannot be realised if workers don't have decent jobs and if their rights are not respected. The HLD must focus on promoting decent work for migrant and local workers alike. This is the only way to create shared prosperity, reduce inequalities, and dampen xenophobia.

The ILO, with its constitutional mandate to protect "*the interests of workers when employed in countries other than their own*", its standards, its expertise in all aspects of labour issues and its tripartite constituency, has a unique role to play in the global debate. The decent work agenda must underpin all migration policies and programmes.

### **2. The HLD must place migration debates, policies and programmes within the UN normative framework**

While acknowledging the sovereign right of all States to develop their own migration and labour policies, the HLD must reaffirm that labour migration policy and practices require a sound legal foundation based on the rule of national and international law.

In particular, access to justice must be facilitated to denounce migration agreements that violate the human rights of migrant workers. In addition to the prejudice brought to migrants, such agreements generate unfair competition, fuel rivalries between migrant and local workers and undermine the rights and welfare of societies. Labour migration agreements must be separated from trade deals. Migrant workers are human beings, they are not commodities.

The HLD must support improvement of the UN supervisory mechanisms ensuring that the human rights of all migrant workers – regardless of status – are effectively protected. In particular:

- The right to form or join a trade union to defend their interests at work. *De jure* or *de facto* restrictions on workers' rights that prevent migrants from forming or joining trade unions help explain the surge of forced labour.
- The right to access justice and adequate grievance mechanisms in case of abuse
- The right to equal wages, working conditions and employment-related social benefits with other workers.

### **3. The HLD must give UN organizations, especially the ILO, the key role in the institutional governance architecture**

Most current international cooperation on migration takes place through informal networks, with no monitoring systems, no genuine participation of civil society and no reference to the normative framework agreed upon at international level. This leads to decisions and programmes that overlook States' obligations to protect the human rights of migrant workers and their families.

International migration is complex and needs to be dealt with in the context of a comprehensive multilateral governance framework. The UN is the only body that has the appropriate normative framework and should be able to provide a coherent and robust response to the challenges posed by cross-border migration. This in turn requires better collaboration and dialogue among the UN agencies that are the custodians of international instruments protecting the rights of migrants. The HLD must reaffirm the primacy of UN organisations and help clarify the responsibilities and accountability of the UN members of the Global Migration Group (GMG).

When it comes to labour migration, the HLD must reaffirm the leadership of the ILO which has the mandate to protect migrant workers' rights. The ILO must be involved in global, regional and bilateral cooperation related to labour migration.

### **4. The HLD must ensure real participation of civil society**

The role of social partners in the formulation and implementation of labour migration laws and policies needs to be promoted at all levels. Adequate provision must be made for the participation of representative migrant workers' organizations at international, regional and national levels to enable real dialogue and action on issues related to labour migration.

The HLD must take seriously the concerns of civil society about the slow progress made towards accountability, transparency and inclusiveness of the Global Forum on Migration and Development (GFMD). UN Organizations such as the ILO and the OHCHR have well-institutionalized democratic and inclusive structures for trade union and civil society's engagement.

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