

United for Foreign Domestic Workers' Rights Network (UFDWR)

Position Paper to the 2nd UN High-level Dialogue 14 July 2013

UN HLD Must Reorient the Migration Discourse Towards Human Rights

In 2006, it declared that the HLD presented a "unique opportunity to identify ways and means to maximize the developmental benefits of international migration and to reduce its negative impacts". The most tangible negotiated outcome of this round of discussions was the formation of the Global Forum on Migration and Development (GFMD), and the institutionalization of the World Bank and OECD proposition that labour migration can be tapped for development in sending-countries.

Seven years after, the perspective of the United Nations regarding migration and development remains basically unchanged. This year's overall theme attests to this fact:

"Identifying concrete measures to strengthen the coherence and cooperation at all levels, with a view to enhancing the benefits of international migration for migrants and countries alike and its important links to development, while reducing its negative implications."

As a regional network of migrant organizations and CSOs in the Asia Pacific campaigning for the human rights of foreign domestic workers (FDWs), the United for Foreign Domestic Workers' Rights (UFDWR) is putting forth its analysis of issues around the 2nd HLD not only from a migrant perspective, but from those of FDWs as well. The network believes that the outcome of the October dialogue will bear heavily on future CSO strategies in advancing the fundamental rights of FDWs, and that therefore public debates around the HLD have become a crucial platform for intervention in the migration discourse.

Foreign Domestic Work and Human Rights

The economic and social importance of domestic work in the economy has always been underappreciated, which goes far in explaining the difficulty of having it recognized as an essential component in the world of work. In the words of the ILO, it is "undervalued, underpaid, unprotected and poorly regulated" (ILO, 2010). Despite numerous international statutes that give formal recognition to domestic work as work that should also be covered by core labour standards, the traditional notion that domestic work is unskilled work that has little value in socio-economic development persist to this day, mainly because it is work done mostly by women and in the household. Such discriminatory perceptions affect even the way governments at both ends of the migration flow create policies on foreign domestic work.

While FDWs and local domestic workers both experience social discrimination, economic exploitation and human rights violations due to the lowly status of their occupation, the former are subjected to added

pressures due to their alien status. Like other migrant workers, they are prey to racial discrimination and other policies of social exclusion, and are therefore oppressed not only as migrants but also as domestic workers.

Foreign domestic work probably provides some of the most dramatic and genderized cases of human rights violations in the world of forced migration. In the Asia Pacific alone, the recent cases of Rizana Nafeek (death penalty), Helen Carumba (arrest, detention and deportation) and the sex-for-flight scandal in Jordan involving Philippine government officials stand out as prime examples of the extreme vulnerability of FDWs, most of whom are women.

Such human rights violations against FDWs and other migrant workers testify to the growing need for policymakers to shift to the rights-based approach in dealing with migration. The pre-eminence of human rights in the migration discourse must be reasserted in the 2013 UN HLD, and the remittance-driven approach fundamentally rejected.

While some sending country governments may claim economic progress, the mere existence of forced labour migration in itself is proof of a lack of development in these countries. Push factors at home include poverty and social injustices due to lack of gainful employment and livelihood, rural landlessness, political repression, poor delivery of public services and bad governance. Foreign domestic work in particular is an exemplary indicator of a country's level of development, as many FDWs are highly-skilled professionals who are compelled by low wages at home to work abroad as household workers. In this sense, foreign domestic work is a developmental phenomenon that needs to be addressed from a comprehensive, rights-based perspective – especially the right to development.

Migration and People's Right to Development

Currently, there has been a suggestion from certain CSOs that the best way to promote migrants' right to development is by integrating migration to the post-2015 UN development agenda. Not only is this proposition inappropriate as a UN development target, but if realized will more likely promote the "migration for development" paradigm rather than reduce its influence.

More than ever, what is needed is a people's development agenda that is equitable and sustainable, and which will profoundly rectify socio-economic flaws that underpin forced economic migration. The achievement of these goals will create an environment that will transform migration from the survivalist necessity it is today, into one that is self-driven, liberating and humane. In turn, this will enable migrants to reach their full potential in making substantive contributions to national development at home.

Towards the attainment of these and other rights-based objectives, the UFDWR proposes the following package of measures to be weightily considered by the upcoming UN HLD:

- 1) Assert the primacy of human rights in labour migration by urging UN members, especially host-country governments, to immediately ratify migrant-related statutes such as the UN Migrant Workers' Convention and the ILO C189. This will provide added pressure on vacillating states to adopt these conventions and will have the effect of institutionalizing human rights as the preeminent framework in dealing with labour migration, particularly foreign domestic work.
- 2) Replace the GFMD with another migration forum that adheres to the rights-based approach.

 Reforming the GFMD itself has never been a viable option from the start, as it was fully oriented to

the utilization of remittances for development finance, and its modalities heavily favour government and business stakeholders, rather than grassroots migrant organizations. The alternative forum that replaces GFMD, while maintaining a multi-stakeholder approach, should be partial to the representation and dynamic participation of grassroots migrant associations, and its processes geared towards eliciting rights-based recommendations from the migrant sector. Delegates of FDW mass organizations should also be provided with dedicated slots in the forum, in recognition of the need to address their extremely vulnerable status under forced migration.

- 3) Establish an inter-agency mechanism led by the UN to regularly review the compliance of sending and receiving countries to international human rights standards on migration. This can be similar to the Universal Periodic Review (UPR) of the UN Human Rights Council (HRC), and should have as bases the UN Charter, the International Declaration of Human Rights (IDHR), UN conventions such as the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) and relevant ILO conventions. In particular, adherence CEDAW should be emphasized in this periodic review as a way of protecting the health rights of women migrant workers.
- 4) Ensure regulation of placement agencies and private financing firms as stipulated in the ILO Domestic Workers' Convention (C189). Tighter laws and policies as well as prosecutory actions must be enacted by both sending and receiving country governments to eliminate overcharging, insertion of hidden fees and debt-bondage conditions, especially to protect FDWs who are more vulnerable than other categories of migrant workers.
- 5) Work towards the attainment of people-oriented, post-2015 UN development goals that address the roots of forced labour migration and foreign domestic work, also called the People's Goals for Sustainable Development (www.peoplesgoals.org) by CSOs. These are focused on the following areas of redress: human rights; poverty and inequality; food sovereignty; full employment and decent work; universal social protection; gender justice; environmental sustainability; mutually-beneficial trade relations; democracy and good governance; and peace and security.

Both in the second HLD and the post-2015 formulation of development goals, great emphasis must be given as regards the meaningful participation of people's organizations and CSOs working at the grassroots level. As has been shown in the previous HLD, a one-sided reliance on state stakeholders often produce policies that are unfavourable to migrant workers and heavily in favour of commercial interests. For the UN system to remain relevant to the aspirations of migrant workers, a more inclusive and democratic process should be devised that ensures genuine participation of grassroots migrant organizations and is geared towards the elimination of the roots of forced labour migration. #