

Discussion Paper

**TRADE UNIONS AND WORKERS' MIGRATION**  
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# TRADE UNIONS AND WORKERS' MIGRATION<sup>1</sup>

## Introduction

This resource paper limits its discussion to economic migrants in general and migrant workers in particular and does not describe the situation of other types of migrants intending to emigrate to other countries either for residence or toward gaining citizenship in the host countries.

It is written in three parts.

The first part describes the global situation, trends and issues in international migration and migrant working. Likewise, it discusses the role of workers' migration in development, international standards concerning migration and responses and good practices in managing the flow of migrant workers.

The second part discusses the situation and issues in unionizing migrant workers by presenting a general survey of trade union actions on migrant workers and several trade union-based models for integrating migrant workers and their unions into higher level union structures.

The third part points out to some lacking elements in the trade union actions and models previously discussed. It suggests the concept of decent work as a broader framework for improving the work and life of migrant workers. It points to the need for more union to union arrangements in managing the flow of migrant workers, to cultural integration through education and training, to more adequate social security and protection and to the need for regional advocacy for migrant workers

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<sup>1</sup>This paper (revised in December, 2005) was written by Antonio C. Asper originally for the IFBWW-Regional Office's Asian Migrant Workers' Project as one of the resource papers for its Seminar on Migrant Workers, held in Tokyo in September 25, 2005. Subsequently, it was edited to incorporate the suggestions made in that seminar. . Mr. Asper is Executive Assistant to the President of the Federation of Free Workers (FFW) in the Philippines.

# I

## Situation, Trends and Issues and Responses

### Magnitude

Variety of estimates exists: Dated reports estimate that there are some 150 to 180 million peoples living outside their countries,<sup>2</sup> of which less than 100 million are migrant workers. The reports project that by 2050, the stock can rise up to 500 million.<sup>3</sup>

ILO estimates that almost eighty percent of all foreign job placements are done by private placement agencies.

Irregular migrants, including migrant workers, are estimated at 40 percent of the current stock and flow, which is increasing by 4 to 8 percent a year<sup>4</sup>

Asia and Oceania:<sup>5</sup>

- Accounts for 14 percent of the world's stock of migrant workers and is currently the primary source of family and authorized economic migration of all forms (about 30 percent in Australia; 33 percent of all immigrants in Canada and 24 percent in the USA).
- The nine largest Asian immigrant exporting countries are the Philippines, India, Bangladesh, Pakistan, Indonesia, Thailand, China, Sri Lanka and Myanmar. Together they make up one-half to two thirds of all documented migrants and refugees.
- Within Asia, the favorite destinations are Malaysia, Singapore, Japan, Taiwan, South Korea, Hong Kong.
- Certain salient features dominate labor migration in the Region: it is one of the most organized; destinations are shifting from the Middle East to inside the region; irregular migration is increasing and so is trafficking of persons; and increased and increasing feminization of migrant workers.

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<sup>2</sup> Also see, IOM, "World Migration Report", 2005. This report puts the figure at 175 million in year 2000 or one out of every 35 persons in the world. Extrapolating from past data, the report estimates that there may be as many as 182-190 million international migrants this year, 2005.

<sup>3</sup> See for example, Patrick A. Tran's "Migration and Labour Solidarity", in ILO's *Labour Education* 202/4, No. 129, ILO, Geneva

<sup>4</sup> cited by Vitten-Balima from UN reports in her article "Migrant Workers: the ILO Standards", *Labour Education* 2002/4

<sup>5</sup> data culled from WMR, 2005, *Section 1, Regional Overview of Selected Geographical Regions*, Chapter 6 "International Migration Trends and Patterns in Asia and Oceania"

- In 2001, women migrant workers made up some 47 percent of all migrant workers in Asia. In three countries alone (Philippines, Indonesia and Sri Lanka) women accounted for 60 to 80 percent of all their migrant workers. Countries of destination follow the general trend towards Japan, Hong Kong, Singapore, South Korea, Malaysia and Thailand.
- Irregular migration has been increasing. Currently, up to 1 million irregular migrant workers are found in Malaysia and Thailand. In Malaysia alone, a little more than one-half of the foreign plantation workers were documented and the rest were not. In Thailand less than 2 million were irregular migrants in 2001. In South Korea by 2003, close to 80 percent of all foreign workers were in informal sector activities, but this was brought down to about 36 percent by year end due to the “employment permit system”.
- “It is estimated that the region accounts for approximately one-third of the total global trafficking flow (close to 1 million), with 60 percent of the trafficked women, men and children being channeled into major regional cities and 40 percent to other destination in the rest of the world”. (UN, 2003). Favorite destinations of sex workers are Japan, Malaysia South Korea, and Taiwan, with Hong Kong as major transit point.
- Close to USD 100 billion were remitted by South Asian migrant workers back to their countries in 2001 or about 20 percent of the annual global total flows to South Asia, with India accounting for 78 percent and Bangladesh for 12 percent..

### **Socio-economic and political push and pull factors**

Certain socio-economic and political factors impel global migratory work.

#### Extent of socio-economic and political integration of countries within regional trading arrangements, such as EU and AFTA

Cross-country migratory work has existed even before the advent of regional trading arrangements. But as countries within a defined region integrate their economies and political structures, economic barriers to the freer flow of trade and investments come down. What follows at a much slower rate is the removal of barriers in the flow of labor.

Since migrant working tends to create distortions in their economies as well as their labor markets and industrial relations,<sup>6</sup> the social partners would tend to regulate or manage both its flow and stock in their respective countries. From there arise the need to look into the social dimension of migratory work, for which regionally integrated economies and political structures are in a much better position to do.

In the EU, Commissions have been established to look into the nature, character and extent of migrant working, as a result of which EU-wide policies and programs involving the social partners have been adopted and designed. The social partners in countries within the EU refer to these studies, policies and programs in crafting their own migration

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<sup>6</sup> see, “Migration and Industrial Relations”, at eironline.

policies and programs that results in more organized and coordinated management of the stock and flow of migrant workers by each or all of the social partners.

In contrast, in the absence of specific ASEAN Free Trade Area (AFTA) policy on migrant working, each country and the social partners in the ASEAN are left to fend on their own, contributing to the more chaotic handling of the issues on migration in general and labor migration in particular. The same holds with the South Asian Association for Regional Cooperation (SAARC) or the wider Asia-Pacific Economic Community (APEC).

### Country Demographics and levels of development

On the one hand, the ageing and falling population of developed countries and the pace and level of their economic development create shortages both in human resources and skills that are necessary to maintain their standards of living, which the more organized sending and developing countries are ready to fill up.

Job mismatches in developed countries due to skills or educational attainment, residential locations or workers' choices generate the pull factors for migration. On the other hand, persistent poverty, underdevelopment and unemployment coupled with a young and fast growing population, as well as increasingly educated and skilled workforce in developing countries make it attractive for their population to migrate to other countries in search of better and more remunerative work, either as regular or irregular migrant workers.

### Globalization<sup>7</sup>

The opening up of economic borders for trade and investment create push and pull factors conducive to migrant working. Where liberalization succeeds in countries, this leads to economic development faster than the countries' human resource can cope up with economic growth, thus creating general labor shortages and shortages in specific skills; migrant workers are then welcomed. Where it fails, this creates widespread or islands of poverty within a growing population of these countries, impelling workers to seek and risk working as migrants in foreign lands.

Liberalization also induces corporate restructuring, in particular relocation, where multinational corporations would flock to the more liberalized economies, creating surplus labor in countries that are left out and skills shortages in countries where they relocate. Mode 3 and 4 of the General Agreement on Trade in Services (GATS) when pushed to full throttle could accelerate migrant working.

### Privatization

Privatization has a similar push effect. Workers downsized in developing countries due to privatization look at migration as a better option than informalization, especially in cases where they can not be employed in their own countries due to socio-economic problems. On the other hand, privatization of certain governmental functions in

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<sup>7</sup> Among others, see Hardy, Jane & Nick Clark, "EU Enlargement, Workers and Migration: Implications for Trade Unions in the UK and Poland", paper given at the GURN International Workshop on 'Trade Unions, Globalization and Development – Strengthening Rights and Capabilities of Workers', Novo Hamburgo, Brazil, Jan. 2005

developed countries has pulled down wage levels. Coupled with workers' residential movements to sub-urban locations and the increasing time for commuting resulting therefrom, these have helped create labor shortages in these countries, which migratory work readily fills up

### Political crisis and upheavals

Whether these happen within countries or regions, movements of peoples in search of more security provide the impulse for massive out-migration. On the one hand, peoples in affected countries are either relocated in neighboring or more politically stable, because developed, countries or they flock in massive droves to these countries either as regular or irregular migrants. On the other hand wars create many opportunities for war personnel to be moved into war torn areas. Other than military personnel, the conduct of wars especially those waged by developed countries over developing ones whether or not same is sanctioned by the United Nations Organization (UNO), create a network of labor sub-contracting to perform non-military services or services to maintain military campaigns<sup>8</sup>

That political convulsions can dramatically increase the international migrant population is shown by the example of the disintegration of the former USSR, which, according to the *2005 World Migration Report*, was responsible for the dramatic increase of migrants between 1990 and 2000.

Thus, according to the same Report, the "combination of political instability, ethnic conflict, economic hardships and the opening up of borders" is expected to prompt a new wave of international migration. Even restrictive migration policies have not been able to contain the movements for migration. If at all they have contributed largely to the exodus and exploitation of irregular migrant workers.

*Migration Regimes of Countries.* Good practices in policies and administration on migration suggest a more organized regime for managing the flow and stock of migrant workers. Countries with more organized regime on migration do tend to be able to make use of migration as supplement to their development policies or to protect their nationals wherever they may be sent.

In addition, a more organized regime of migration results in government to government agreements on the treatment of migrant workers which, in many instances, are more favorable than when no such agreement exists. An organized migration regime in sending countries also dovetail with the policies of receiving countries that see migrant workers as essential to their continued economic development. Certain lines of thoughts, moreover, would tend to push the debate on migration from a policy of "managing" the flow to one of "promoting" it as an essential strategy for development.<sup>9</sup>

According to M. Abella (2002):

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<sup>8</sup> See also, Marthoz, Jean-Paul, "Freedom and Migration", in *Labour Education* 2002/4, No. 129, ILO, Geneva.

<sup>9</sup> See Imperial, Ma. Luisa "Gigette" S.; "Overseas Employment: A Growth Strategy?", in *Philippine Labor Review*, Volume XXVII, Number 1, January-June 2003, ISBN 1015-2629, Institute of Labor Studies of the Department of Labor and Employment, Philippines.

“Migrant workers are among the most vulnerable people in society; they are the least protected. They often come to the host countries where they perform the jobs that natives no longer want to do, that is to say the so-called ‘three-Ds’ jobs (dirty, degrading and dangerous). They are regularly subject to abusive, exploitative and discriminatory treatment. The situation has somehow been made worse with some aspects of globalization and trade liberalization. For instance, faced with growing competition, small and medium-sized companies and labour-intensive economic sectors do not have the option of relocating operations abroad. Responses in these sectors have therefore included downsizing of manufacturing processes, deregulation and flexibilization of employment, with increased emphasis on cost-cutting measures and sub-contracting. In a considerable number of countries, these measures have expanded the number of jobs at the bottom of the employment scale. Getting out of such a situation for a migrant worker is increasingly difficult, Migrant workers, contrary to what is often the perception in host countries, are well educated and skilled workers who invest heavily in their migration. They are ready to accept unskilled work in the host country but they hope to find their way into a better situation, which unfortunately may not happen. On top of the abusive conditions and exploitation at the workplace, migrant workers face discrimination in the labour market. We found that 30 percent of those who had responded to advertisements for jobs, never even got an offer for an interview because their names were associated with a different ethnic group”<sup>10</sup>

## Trends

Migrant working is not about to ebb. In fact, it is on the rise. IOM’s *2005 World Migration Report* mentions that 2.5 percent of the world’s population in 1960 consisted of migrants. By 2000, the ratio has increased to 2.9 percent. The socio-economic and political push and pull factors will ensure that migrant working will become a more or less permanent feature of a globalizing economy.

Migrants are concentrating in a few developed countries, very notably in countries with ageing population and with low fertility levels. Estimates put the number of international migrants living in developed countries by year 2000 at 60 percent of the stock, a notable reversal from three decades back when in 1970 some 56 percent were found in developing countries. As percentage of their population, the stock of migrant workers in developing countries went down from 1.6 percent in 1970 to 1.3 percent in 2000 while that in the developed countries went up from 3.6 percent to 8.7 percent in the same period. The USA will continue to absorb international migrants the most, which is currently placed at 1 in 5 of every international migrant.<sup>11</sup>

While by year 2000 female migrant workers were more than males, it is not certain that the trend to feminization will hold. Female migrant workers are decreasing in Asia and Africa but increasing in other parts of the globe, notably in the Americas, Oceania, Europe and the Middle East.

Economic migration will continue to be the primordial reason for increasing migratory stock and flows.

<sup>10</sup> Interview with Manolo I. Abella, Chief of the International Migration Branch of the ILO, in “Migrant workers’ rights are not negotiable”, *Labour Education* 2002/4 No. 129, ILO, Geneva.

<sup>11</sup> WMR, 2005. op. cit.

Unless combated on a global scale, trafficking of persons including migrant workers will continue to rise. Irregular migration, much owing to restrictive migration policies, has led to increased trafficking: a lucrative US\$7 billion a year, second only to the money yielded in drugs and arms smuggling.

## Issues

### Social Dumping, Unemployment and Depressed Wage Levels

Increasing unemployment particularly in developed countries has given rise to the issue of social dumping. Accordingly, not only has the influx of cheaper goods made by cheaper labor from developing countries contributed to the unemployment in developed countries; likewise, opening the national borders of developed countries to workers' migration from developing countries are claimed to have contributed to unemployment and depressed wages in the developed countries. Among others, this has dampened the interests of some trade unions to address the migrant workers' issue, or if at all, to promote policies that will mitigate the exploitation of migrant workers in their own countries.

### Brain and Brawn Drain

Developing countries are facing the prospects of losing their educated and skilled labor force that are migrating in substantial numbers in search of better alternatives for themselves and for their families. In the beginning, the bulk of migrant workers were composed of unskilled or semi-skilled workers recruited to work as construction laborers, production workers or domestic helpers. Currently, the exodus of more educated, more skilled and professional personnel in the medical and para-medical professions, information, communication technologies, teaching and engineering is increasing. A polarity has thus been observed in many countries in Europe where migrant workers tend to concentrate in both highly skilled and low skilled jobs.

Other than the remittances sent back home by migrant workers, which not only shore up the dollar reserves of their countries but also promote consumption-led economic growth, the problem arises when these countries who have invested much in education and training for their professionals begin to leave the country to the detriment of their own development and social welfare. "ILO research has shown that some developing countries lose from 10 to 30 percent of qualified manpower through this 'brain drain', damaging the prospects for economic growth."<sup>12</sup>

The problem of brain drain becomes more complicated as it is the more educated and skilled workers and professionals who seek for permanent residences in the host countries or permanent immigration towards citizenship in these countries. In which case, even the rationale lose its relevance that migration can promote the transfer of northern technology to the southern countries.

### Policy dilemmas, paradoxes and distortions

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<sup>12</sup> Tran, op.cit.

Certain fundamental policy dilemmas exist in managing immigration and migration for work: it is both encouraged and discouraged in receiving countries as well as in sending ones. In many developed receiving countries, restrictive immigration laws are in place, including ones that protect their own labor markets. The global trend to liberalization and deregulation of national economies and markets exists side by side with the protection of labor markets and regulation of labor migration in both receiving and sending countries.

Many of these policies, however, remain as mere pronouncements, and laws are either not implemented or relaxed especially at times when skills shortages in receiving countries occur, which are needed to keep their economies going. In developing/sending countries, on the other hand, similar restrictions and strict regulations are in place but surplus labor and unemployment and the need for economic growth create pressures to relax these laws or ignore it altogether. In consequence, irregular immigration and labor migration are on the rise, feeding into increased trafficking of peoples.

In respect to migrant workers' remittances, even as most countries would freely allow the transfer to remittances by migrant workers, some governments regulate this for various reasons, such as requiring migrant workers to remit back part of their earnings, setting maximum ceilings on the amount of remittances at any time, or taxing the recipients certain percentage of the remittances. As a result, migrants instead make use of informal transfer services that not only defeat the positive effects of such regulations, but also create delays, dangers and risks for these remittances or even increase the cost of remitting money to the families of migrant workers.<sup>13</sup>

#### Discrimination, racism and xenophobia

While these phenomena have existed in the past in many forms, labor migration has tended to trigger more intense reactions. Thus, even as countries are opening up to multiculturalism, multi-ethnicity, multiracialism, multilingualism and multi-religious toleration, the same countries are experiencing hostility and violence for the same reasons. The lack of jobs and increasing insecurity at work including the inadequacy, regression or absence of social protection in receiving countries as well as in sending countries contribute to intensifying discrimination, racism and xenophobia.

#### Recruitment and placement fees

ILO's Convention encourages the non-collection or non-payment of fees from intending migrant workers. The Trade Union Congress in the United Kingdom of Great Britain, in fact, asserts in its *Guide to Workers' Rights* for migrant workers that placement fees should not be paid by workers; instead they should be collected from employers.<sup>14</sup>

In one case studied involving the Philippines and Taiwan, private placement fee-charging agencies in both countries impose the equivalent of up to six months in wages of migrant workers for a three-year duration of employment. In the Philippines, private recruitment and placement agencies collect up to two months pay from migrant workers, payable up-front or through salary deduction, while the private placement brokers in

<sup>13</sup> *vide*, van Doors, Judith, "Migration, remittances and development", in *Labour Education* 2002/4, op.cit.

<sup>14</sup> TUC, "Working in the UK: Your rights at work", [www.tuc.org.uk/international/tuc-7982-f0.cfm](http://www.tuc.org.uk/international/tuc-7982-f0.cfm)

Taiwan charge up to four months pay, which is deducted from the monthly salaries of migrant workers within three years on a staggered basis.

### Irregular Migration and Trafficking

Studies are replete about the practices of irregular migration in both sending and receiving countries. These practices happen during recruitment and placement in the sending country, upon arrival in the receiving country, and during the whole duration of the migrant workers' employment in the host country.

These cases usually relate to fraudulent documentation or irregular flight from the country of origin of intending migrant workers, breach of contractual arrangements or employment contracts by employers or private agents, cases of regular migrant workers deciding to go "underground" by "jumping ship" or by breaking their contracts to work in occupations or enterprises not specified in their original contract of employment, usually in the unprotected informal sector of the receiving country. All of which practices make the irregular migrant worker vulnerable to trafficking and is left without recourse to legal remedies available in both the sending and receiving countries

In the case of sending countries, alone or in collusion with certain public officers or government employees in charge of migration, private fee-charging recruitment and placement agencies collect from intending migrant workers amounts above what is allowed under the law.<sup>15</sup>

In a worst case investigated by this writer among Filipino overseas performing artists (OPAs) sent to Japan, artists' record books<sup>16</sup> have been tampered with for a price, or sold outright at prices up to 4,000 times what it would normally cost. In exchange, these OPAs need not go through the legal requirements and bureaucratic procedures for obtaining the artists' record book and even get posted for immediate employment by foreign recruiters in collusion with their local counterparts who in fact came to ferry them into their work as night club entertainers.

Intending migrant workers, however, readily agree to such conditions, not only because their training expenses as well as accommodations while on training are paid for by their recruiters but also because they expect to be earning more in foreign countries where they want to go. In this same case cited above, these "overseas performing artists" are reportedly able to send back home up to PHP 80,000.00 (US\$ 1,600.00) a month to their families from a contract wage of between US\$800 – US\$1,500.00, and double that from tips of club customers. What has been left unsaid is that in their desire to earn as much during their six months contract, which can be renewed, the women performing artists are lured into prostitution.

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<sup>15</sup> This is what exactly happened in the latest case of rioting of Thai workers in Taiwan's railway construction project last September, 2005.

<sup>16</sup> The Artist Record Book is a public document looking much like a passport that specifies or certifies the competency gained or training undergone by the "entertainer", including identification and a photograph. Said document is a pre-requisite to the issuance of a working visa. These entertainers are employed in hotels or clubs in Japan. At the time of the investigation, up to 500 ARBs were being processed daily, adding to what then was estimated to be some 70,000 "performing artists" employed in Japan.. Sometime later, the Japanese government passed an anti-trafficking law and strengthened the procedures as well as increased the training requirement for entertainers getting into the country that led to the collapse of the once extremely profitable "industry".

Thus, graft and corruption coupled with the practice of irregular migration often lead to the obnoxious practice of trafficking migrant workers, where women are particularly vulnerable, especially among domestic helpers and entertainers.

### Human rights and the exercise of fundamental rights at work

The inadequate recognition, protection and advancement of and compliance to universally recognized human rights and the fundamental rights at work, go against migrants in general and migrant workers in particular. Moreover, this issue is obfuscated by harsh global economic competition leading to policy dualism and paradoxes, and the inadequacy of global regulation or supervisory mechanisms toward compliance to these universally accepted principles.

### Negative social consequences of labor migration

Most migrant workers either voluntarily or by force of circumstances go back to their countries of origin after their work stint in foreign lands. However, they do not only face bleak prospects of re-employment when they decide to go back specially where labor surplus and unemployment or under-employment are high and persistent in their countries of origin; there is also an increasing incidence of broken families or problematic families where the children of migrant workers as a result of single-parenting or parental absence have become involved in drug abuse or petty social crimes.

Moreover, financial mismanagement of hard earned money from migrant working by the families of these workers much too often results in penury of their families and of the returning migrant worker.

## **Workers' Migration and Development**

Migrant workers in fact contribute to the development both of their countries of origin and their host countries.

In the Philippines<sup>17</sup>, for example, unemployment averages 11 percent in the last 5 years, while underemployment averages twice that rate in the same period and where poverty incidence is about 30 percent. In this context, labor migration:

- aside from easing unemployment, official dollar remittances or remittances sent through banks amounted on the average to two percent of the GNP in the eighties, 4.8% in the nineties and about 8.6% in the year 2002. Their contribution is actually more, since only 70 percent use the banks to send remittances. The other 30 percent send their remittances through door-to-door delivery (26%) or through agency or local offices, friends, co-workers or by other means (4%).<sup>18</sup>

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<sup>17</sup> Soriano, Teresita M., "Managing Overseas Migration Program Under a Globalized Regime: Is It Any Different?", presented during the OECD-WB-IOM *Seminar on Trade and Migration*, Geneva, Palais Des Nations, 12-14 November, 2003

<sup>18</sup> Current data puts the estimates on the flow of overseas Filipino workers migrating for work at 2,500 persons a day, with an estimated stock of Overseas Filipinos numbering to some 7.5 million persons or 10% of the total population, distributed in some 182 countries. These estimates put the Philippines next only to Mexico in terms of the number of migrant workers.

- six out of every 100 Filipino families receive financial support from their relatives abroad. Remittances are mostly spent on private consumption that has spurred consumption-led economic growth in the past, despite recession and higher unemployment rates.

Similar impacts have been observed in a number of developing countries in Asia, Africa and Latin America.

- in Bangladesh, remittances have a multiplier effect of 3.3. on GNP and 2.8 on consumption, and 0.4 on investments;
- in Senegal, 30 to 80 percent of household budgets come from remittances; the studies found similar effects on other West African countries;
- in El Salvador, up to 61 percent of household budgets come from remittances.

In the United Kingdom:<sup>19</sup>

- “migrants actually contribute 10% more in taxes than they receive in benefits”, while “a recent TUC report on migrant workers estimated that every taxpayer would have to pay an extra penny in the pound to make up for lost taxes if the country dispensed of migrant labour.”
- Instead of contributing to higher unemployment or undercutting wages or contributing to the drain on public services, migrants fill up vacancies in unpopular, low paid sectors and shortages in certain skills, which, otherwise, could slow down economic growth. By consuming, migrant workers boost demand for products, which increase job opportunities.

According to Elsa Ramos, Director of the Equality and Youth Department of the International Confederation of Free Trade Unions (ICFTU), “...foreign households living in Switzerland make 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.”<sup>20</sup>

Studies in the dynamics of migration and development has led some experts like M. Abella<sup>21</sup>, for example, to conclude that “(For sure,) migrant workers contribute to wealth production, consumption and social protection systems in their host countries, and they bring skills, knowledge and experience when they return. In between, remittances are a valuable source of income for the countries of origin.”

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<sup>19</sup> Taylor, Helen, “Working across frontiers”, in [www.unison.org.uk/features/features/0408frontiers.asp](http://www.unison.org.uk/features/features/0408frontiers.asp)

<sup>20</sup> Ramos, Elsa, “Migration: Industrialized countries are the main winners”, in *Labour Education* 2002/4, No. 129, ILO, Geneva.

<sup>21</sup> Abella, op.cit., page 3

Certain perverse effects, however, result from workers' migration. In the Philippines, for example, the health system can collapse within two to three years if the exodus of doctors and nurses is not addressed soon, says the Alliance of Health Workers (AHW). These workers are migrating for work or immigrating in the North American countries, Europe and Middle East. Japan also intends to take in nurses and other health workers soon.

Philippine doctors are retraining as nurses to fill in the demand for nurses in these countries. "Nobody is applying for a residency program. They are looking forward to getting jobs abroad so they transfer to regional and provincial hospitals where they can get experience, says an AHW officer." And yet anecdotal evidences also show three public hospitals to have closed in one province for lack of health personnel who have decided to seek employment abroad. AHW estimates that "around 5,000 doctors have already left to work as nurses abroad and 4,000 more are currently enrolled in the nursing schools,"<sup>22</sup> for the same reasons.

### International Standards<sup>23</sup>

The plight and positive contributions of migrant workers gave impetus to international bodies to craft and promote global standards on migration. Thus, several international standards deal directly or indirectly with migration in general and workers' migration in particular. (See *Box 1*)

Box 1:

**List of International Standards Directly or Indirectly Relating to Migration and Migrant Workers**

UNO Instruments

- ✚ Universal Declaration of Human Rights (1948)
- ✚ International convention on the Elimination of All Forms of Racial Discrimination (1965)
- ✚ International Covenant on Economic, Social and Cultural Rights (1966) International Covenant on Civil and Political Rights (1966)
- ✚ Convention on the Elimination of All Forms of Discrimination against Women (1979)
- ✚ Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- ✚ Convention on the Rights of the Child (1989)
- ✚ International Convention on the Protection of the Rights of all Migrant Workers and Members of the Families (1990)
- ✚ Convention against Transnational Organized Crime (2000)

ILO Conventions and Recommendations

<sup>22</sup> \_\_\_\_\_. "Health workers warn health care system may collapse" in *Philippine Star*, September 17, 2005."

<sup>23</sup> *vide*, Vittin-Balima, Cecile; "Migrant workers: The ILO Standards", in *Labour Education* 2002/4, No. 129, ILO. Geneva.

- ✚ Convention No. 97 (Revised) and Recommendation (Revised) No. 86 on Migration for Employment (1949)
  - ✚ Convention No. 143 on Migrant Workers (Supplementary Provisions) and Migrant Workers Recommendation No. 151 (1975)
  
  - ✚ Besides these main Conventions and Recommendations, certain other Conventions and Recommendations of the ILO though these do not specifically refer to migrant workers contain provisions relating to them, such as:
    - ✚ Convention No. 26, on Minimum Wage Fixing Machinery (1928)
    - ✚ Convention No. 29 on Forced Labour (1930)
    - ✚ Convention No. 81 on on Labour Inspection (1947)
    - ✚ Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948)
    - ✚ Convention No. 88 on Employment Service Convention (1948)
    - ✚ Convention No. 98 on the Right to Organize and Collective Bargaining (1949)
    - ✚ Convention No. 100 on Equal Remuneration (1951)
    - ✚ Convention No. 143 on Maternity Protection (1952)
    - ✚ Convention No. 105 on Abolition of Forced labour (1957)
    - ✚ Convention 107 on Indigenous and Tribal Population (1957)
    - ✚ Convention No. 111 on Discrimination (Employment and Occupation) and Recommendation 111 (1958)
    - ✚ Convention 115 on Workers' Housing (1961)
    - ✚ Convention No. 122 on Employment Policy (1964)
    - ✚ Convention No. 138 on Minimum Age (1973)
    - ✚ Recommendation No. 150 on Human Resources Development (1975)
    - ✚ Recommendation No. 164 on occupational Safety and Health (1981)
    - ✚ Convention 158 on Termination of Employment (1984)
    - ✚ Recommendation No. 169 on Employment Policy (Supplementary Provisions) (1948).
    - ✚ Convention No. 168 on Employment Promotion and Protection against Unemployment (1988)
    - ✚ Convention No. 169 on Indigenous and Tribal Peoples (1989)
    - ✚ Convention 181 on Private Employment Agencies and Recommendation No. 188 (1997)
- (Source: Vittin-Balima)

These standards serve as guide to the social partners in crafting their own or joint policies and programs concerning migrant workers. For trade unions, it provides the global legal basis in campaigning for and promoting the rights of migrant workers, globally as well within their respective countries.

## Responses and Good Practices

Amidst the continuing debate on the relative merits and demerits of workers' migration, certain good practices have emerged in managing the flow and protecting the stock and flow of migrants.

### Continuing Social Dialogue

The search for appropriate responses to the challenges of migration has precipitated extensive and intensive social dialogues at most levels of national societies, regional groupings and the global community. At the global level, these have resulted in the adoption of international standards and instruments to deal with the problems of migration. Likewise, focused programs and projects to ameliorate their conditions have been undertaken.

Along regional groupings, the continuing social dialogue, for example in the EU is resulting in the cross-border coordination of policies and programs relating to migration, including labor migration, even as certain differences exist between and among the members of the regional grouping. Other regional groupings in other parts of the globe also continue to promote social dialogue at their level, although not as intensive as the EU has done.

At national levels, law and practice are being set in place and, in an increasing number of countries, joint determination by the social partners at least of policies are practiced. Such is the case when representative of employers and trade unions are either appointed to tripartite bodies dealing with migration or are elected into positions in parliament or legislative bodies. From these platforms, common policies and programs are crafted.

Mostly found in receiving/developed countries, social dialogues are also undertaken at the level of workplaces, where the representatives of workers and employers – at least in some countries – are able to include provisions in their collective agreements concerning the promotion of equality as well as combating discriminatory practices, racialism and xenophobia within.

### Rise of unilateral and bilateral migration regimes

A number of governments in the countries of origin of migrants have set up administrative structures to take on the role of regulating and managing the flow of migrants, specifically the migrant workers. In the host countries similar arrangements are in place, which are lodged either in the labor ministries or in some other ministries along lines specified by the respective political structures.

In receiving countries, the presence of migration regimes enable the discussion and crafting of measures that promote equality, combat discrimination and advance the integration of migrants in their societies.

These regimes have also given rise to government-to-government arrangements that protect and promote the rights and welfare of migrants in general and specifically of migrant workers. Because of the presence of migration regimes what otherwise would have been undertaken purely as a commercial transaction with all its attendant exploitation of migrants and migrant workers, these can now be regulated by law within the countries involved while the worst practices can now more easily be mitigated among and between countries where binding agreements exist.

### Access to social protection

Arising out of the pressures applied by trade unions and NGOs on their respective governments as much as on the initiatives taken by certain governments, migrants are able to access and enjoy the benefits of institutional social protection in receiving and sending countries alike. In addition, privately organized social protection schemes put up largely by organization of migrant workers, unions and other NGOs that are focusing on migrants and migrant workers have also been established.

Still in its infancy, social security systems between countries are forging bilateral agreements to facilitate access by their nationals to the services and benefits of their respective systems, even while such nationals are working abroad.

### Re-integrating returning migrant workers

Organized migration regimes have led governments to establish re-integration systems for their returning migrant workers. Many Non-governmental Organizations also specialize along these lines. Separately or jointly, they organize the flow of remittances and the families and communities of migrant workers. They set up specialized counseling services for migrant workers and their families. They also create opportunities for them to invest their money in financial instruments or in micro- and small enterprises. \*They set-up communications between migrant workers and their families; all with the net effect that returning migrant workers can be more easily re-integrated when their work abroad ends.

### Organizing Migrant Workers

While some literature advert to the inadequacy, even the absence, of union responses to labor migration, unions have in fact been at the forefront of organizing migrant workers for mutual aid and protection, for the recognition of their universal rights as well as in advancing these rights globally, nationally and in workplaces.

The seafarers are primary examples. While not strictly falling under the more current definition of migrant workers, nonetheless, they are migrant workers for all purposes: and, they are not only organized for mutual aid and protection, they are also unionized for the purpose of collective bargaining with their employers. Moreover, some national seafarers' unions offer additional social protection schemes to their members beyond what is negotiated in collective agreements and what are institutionally provided in their countries of origin.

There are also the more than century old campaigns to organize and protect migratory agricultural workers who move from their countries of origin to adjacent neighboring countries and stay there as immigrants, "permanently" or as temporary non-immigrant workers or merely as seasonal workers. National trade union centers in certain developed countries have not only integrated them into their unions, they have also been assisted in forming industry-based or sector-based unions to pursue their own advancement at work within the legal frameworks in countries where they work.

To be sure, some dualism exists even in trade union policies and programs. Certain trade union centers in some countries are known to have opposed in the past as well as presently the entry and employment of migrant workers into their countries and instead support laws and policies that are patently discriminatory to migrant workers. On the other hand, the trade union movements in other countries and sectoral trade unions within the same organization in the same countries have put up programs to help and protect migrant workers.

**Box 2:**

**Trade union membership among migrants**

Although there is a lack of statistical information for most of the countries covered by this study, trade union density among migrant workers seems to be lower than the average. Examples of below-average overall density for migrants (often based on estimates) are Belgium, Denmark, Hungary, Ireland, the Netherlands, Norway and the UK. However, even if migrant workers have a relatively low density in national terms, this may still be high when compared with unionisation rates in many other countries, as in Belgium for example.

Furthermore, there are often considerable sectoral variations within countries where the overall density for migrants is below average. For example, in Norway, the overall union density for 'non-western' migrants is 36% compared with an average of 56%. However, density for the two groups is equal in private manufacturing (at 54%), but much lower for non-western migrants in private services (21%, compared with 36% for all workers) and the public sector (45%, compared with 77%). In the UK, the unionisation of foreign workers is thought to be lower than the (low) average in hotels/restaurants and wholesale/retail, but nearer the (high) average in public education and health services. Similarly, in Denmark, unionisation of migrant workers appears to be lower than average in sectors such as hotels/catering and cleaning, but nearer average levels elsewhere. Overall, indeed, it seems that an important factor explaining their below-average union density in many countries is that many migrants work in such service sectors, where unionisation is traditionally low

However, the picture of notably low relative unionisation among migrant workers is not universal. In Sweden, for example, union density among foreign workers is only marginally lower than the 80% figure for Swedish nationals. Even more notably, in the Emilia Romagna region of Italy, research indicates that union density among migrants is significantly higher (45%) than the average (36%).

Source: "Migration and industrial relations", in EIROOnline.

On balance, however, global and national trade union policies, programs and projects are advocating for the comprehensive integration of migrant workers into unions as well as into their countries' policies and programs. Beyond advocacy, they are setting up separate migrant workers' unions or integrating these unions into their existing structures.

These are discussed further in the next sections.

Box 3:

### What's Needed<sup>24</sup>

- ✦ An informed and transparent labour migration admission system
- ✦ A standards-based approach to “migration management”
- ✦ Enforcement of minimum national employment conditions standards in all sectors of activity
- ✦ A Plan of Action against discrimination and xenophobia
- ✦ Institutional mechanism for consultation and coordination with social partners in policy elaboration and practical implementation

Fully addressing the dynamics of labour migration also requires:

- ✦ Policies for labour mobility – freedom for workers to move – within regions;
- ✦ Creation of specialized institutions for policy coordination, enforcement and monitoring;
- ✦ Encouraging voluntary return and re-integration of migrants into their countries of origin; and
- ✦ Combating trafficking and exploitation of migrants by organized crime.

For trade unions, this means:

- Promoting employment and social protection and requires anti-discrimination and integration initiatives. ILO standards provide the necessary legal foundation for broad migration policy.
- Solidarity with migrant workers is fundamental: exclusion and dissociation from foreign workers simply facilitate situations in which migrant workers are exploited.
- Combating recent trends in public policy to transform the framework of policy elaboration and implementation from that of labour market regulation to that of policing society

Source: Taran, op.cit.

<sup>24</sup> See also ICFTU's “No to racism and xenophobia! Plan of action of trade unions” in Labour Education 2002/4, No. 129, ILO, Geneva.

## II Unionizing Migrant Workers

### Back to Basics:

Box 4:


**Migrants get unions back to basic**


“Political action, a trade union social charter for migrant workers, anti-racist campaigns and special trainings, collective agreements, recruitment and promotion strategies in cooperation with the employers, organizing among migrant workers, specific assistance and services: at work and society at large, trade unions are engaged in a struggle against racism, xenophobia and the many prejudices to which migrant workers are subject.

“Campaigning may be at the international level, through the exercise of solidarity, or at the grass roots, by getting back to the basics of trade unionism, namely organizing the most vulnerable workers. This benefits the migrant themselves, but also the trade unions as a whole, as it helps to expand their rank and file and breathes new life into their founding principles.”

Source: Natacha David

David<sup>25</sup> chronicles the variety of trade union actions undertaken with, for or in behalf of migrant workers in receiving and sending countries. The range of union-led activities to integrate migrant workers is as wide-ranging as they are creative, interesting, challenging, vitalizing and vivifying such as:

 *Large-scale political action and mobilization* in the USA by the AFL-CIO through a postcard campaign addressed to the US Congress, Senate and President calling for the legal status as well as equal rights for all immigrant workers and the legalization of illegal immigrants or in separate actions declaring its support for the restoration of federal food-stamp programs for immigrant workers; or the support by the Korean national trade union centers to set up a separate migrant workers union and active defense that resulted in an international campaign to release the arrested migrant worker-union leader in South Korea;

 *The advocacy of trade union representatives for the protection of migrant workers*, in tripartite policy boards of public agencies directly in charge of running a migration regime or indirectly promoting the employability of migrant workers through technical education and skills development, such as in the Philippines.

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<sup>25</sup> Same title in Labour Education, op.cit.


- ✚ *Campaigning in defense* of seasonal workers in agriculture by the CFDT in France, in the process creating a form of “area works councils” as well as combating undeclared seasonal agricultural work by promoting “agricultural service employment voucher” to simplify the administrative aspect legalized migrant working;
- ✚ *Continuing large scale organizing* among agricultural and seasonal workers, roofers, laundresses, janitors, in the USA by the AFL-CIO; and the tree planters and farm workers of NORPAC by the CLC in Canada, which resulted, after a ten-year boycott campaign, to negotiations for improving the minimum employment conditions for these workers.
- ✚ *Bargaining for equality*,<sup>26</sup> including anti-racists provisions in collective agreements, by the CLC in Canada; or the inclusion in the provisions of collective agreements for employers to notify the union when authorities are about to visit the workplaces, by the UNITE and HERE in the USA.
- ✚ *Organizing anti-racism task forces* by the CLC of Canada; introducing equality charters or codes of conduct for unionists by the CFDT in France; and conducting awareness raising and orientation seminars for union members about the working conditions, issues and concerns of migrant workers by most unions,
- ✚ *Providing direct services for migrant workers*, such as: vocational training programmes and education services for immigrant and migrant workers, making use of the language normally spoken in the receiving countries such that after graduation the subject migrant worker is not only able to communicate in the common language of the receiving country but also has gained competencies necessary for the exercise of a trade and profession, by the construction unions of Australia; or union provision of direct legal services and lawyers for migrant workers in several countries; or setting up specialized centers to help migrant workers deal with specific problems such as regularization at work, family reunification, issuance of residence or permits, accession to social security services and benefits or employment contracts, training and follow-up on complaints of discrimination, by the CGT and CCOO of Spain; and the IG BAU-assisted European Migrant Workers Union.
- ✚ *Production of “tool kits”* for migrant workers, such as the migration guide of the British TUC, the active job-seeker’s manual for immigrants by the UGT; free phone numbers that migrants may call for advice concerning discrimination or about laws and administrative matters, by the FO of France; or on-line services specially devoted to the issues and concerns of migrant workers that include practical advice and guides for migrant workers by many unions in Europe and the Americas.
- ✚ *Union to union agreements between receiving and sending countries* to promote membership of migrant workers to unions in the countries where they work, such as that signed by the British TUC and the Portuguese CGTP-IN; or union to union cooperation to protect migrant domestic workers, such as that between the

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<sup>26</sup> see also IFBWW’s statement on the same subject @ [www.ifbww.org](http://www.ifbww.org)

Association of Progressive Labor (APL) in the Philippines and its counterpart in Hong Kong; or committing to undertake a pilot project to manage the flow of migrant workers in construction, by the NUBCW in the Philippines and the NFCCW in Taiwan, such that NUBCW will undertake to facilitate sending its presently unemployed members or an employed member intending to work in the construction sites in Taiwan while the NFCCW will facilitate the acceptance of the Filipino

workers in their unionized construction projects at the same time that the union in Taiwan will protect them by helping them organize a separate union for migrant construction workers or integrating them into existing union structures.

-  The “UNI Passport”. A creative way of organizing mobile IT workers, this “passport” is the Union Network International (UNI) response. It “enables workers to transfer from one union to another when they migrate across frontiers. Via the web and email, it provides trade union information and practical advice about contracts and about moving house to another country.”<sup>27</sup>

Box 5:

**Trade union action on migrant workers in Europe**

Cooperation between the social partners on issues relating to migration issues is widespread in the EU countries and Norway, as indicated above. Trade unions and employers' organisations share many views and in some cases even jointly oppose government policy. At the same time, on the issue of the desirability or level of further labour immigration, in many countries unions adopt policies and viewpoints that are critical of the 'liberal' viewpoints of employers' organisations, seeing the idea of a free market for people as misleading. For example, in Norway and Belgium, unions are opposed to open borders for the purpose of 'importing' further foreign workers. Unions in countries such as Denmark, the Netherlands, Belgium and Ireland stress the problem of unemployment among migrants already in the country. Specific worries about the effects on national labour markets of the EU's forthcoming eastward enlargement are reported from countries such as Austria, Finland and Germany (especially in the construction sector). In the candidate countries, unions in Hungary are concerned about the import of cheap labour from neighbouring eastern European countries. Less concern about a possible 'threat' to their members from new migration seems to be the case in countries such as Italy and the Netherlands.

To take the example of Belgium, the two largest union confederations - the Confederation of Christian Trade Unions (*Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV*) and the Belgian General Federation of Labour (*Fédération Générale du Travail de Belgique/Algemeen Belgisch Vakverbond, FGTB/ABVV*) - would like to control migratory flows as much as possible and see economic migration as solution of last resort to labour market shortages. CSC/ACV believes that solutions to labour shortages should first be sought in the domestic labour market and that integration efforts should be stepped up, as earlier immigrants have not yet been fully absorbed into the labour market. New immigration should be on primarily humanitarian rather than economic grounds. In the UK, trade unions are generally in favour of migration to meet labour shortages, but try to ensure that the government and employers do not try to solve shortcomings in pay, working conditions and training with short-term measures that rely on 'poaching' workers from overseas.

<sup>27</sup> David, op. cit.

In terms of the actions of unions on topics relating to migrant workers, there seems to be some activity in most countries with the exception of the candidate countries, where migration does not appear to be a significant issue. In Western Europe, migration seems to be an important topic, generating considerable trade union activity, in countries such as Belgium, Germany, Italy, the Netherlands, Portugal, Spain, Sweden and the UK, but arguably to a lesser extent in countries such as Austria, Denmark, France and Luxembourg. Major types of trade union action include the following.

- One common area of union activity of relevance to migrant workers is involvement in, or the instigation of, campaigns and initiatives to *combat racism and promote equal treatment* for migrants. Such actions are reported from the majority of western European countries. For example, all the main French trade union organisations run more or less proactive anti-racism campaigns, while the German unions participate in government-led programmes against racism and intolerance and coordinate a network of NGOs against racism and for equal rights. In some cases, such as Belgium and Germany, unions have taken action to combat the influence of the far-right. Specific campaigns to promote equal rights for migrant workers - often in non-employment areas (such as housing and political rights) as well as in employment - feature in many countries, such as Belgium, Greece, Italy, Portugal and Spain. Unions have also conducted campaigns on the position of particular groups of migrants - such as people from the Philippines working in private sector nursing homes and private households in the UK.
- *Practical trade union assistance and support* for migrant workers and their labour market and social integration are reported from countries such as Belgium, Finland, Germany, Greece, Italy, the Netherlands, Norway, Portugal, Spain, Sweden and the UK. This may take the form of advice, information, special services and involvement in integration programmes. For example, Italian unions have set up special services to meet migrants' needs, within their existing benefit advice centres, which provide assistance in many areas, such as obtaining residence permits. Unions in countries such as Greece, Italy, the Netherlands, Norway and Portugal provide support for, and/or cooperate with, organisations representing migrants.
- Connected to the previous point, *special departments and services* to deal with migrants and migration issues have been set up by trade unions and/or their confederations in countries including Belgium, Germany, Italy, Luxembourg, the Netherlands, Spain and Sweden. Educating trade union officials and members on the issues affecting migrant workers receives attention in a number of countries, such as Sweden and the UK. The Swedish Trade Union Confederation ([Landsorganisationen, LO](#)) launched a five-year programme in 2002, providing trade union education on discrimination and other migration-related matters, including the use of 60 specially trained instructors ([SE0107107N](#)).
- Union *recruitment initiatives* directed specifically at migrant workers are reported only from a minority of countries, such as Finland, Italy, the Netherlands, Norway, Spain, Sweden and the UK. However, in Sweden these are limited, given high union membership levels among migrant workers, while in Norway they are generally limited to sectors with large numbers of migrants and low overall union density. In some cases, efforts are being made to improve the involvement of migrant members in trade union work - eg Finland and Norway - and their representation in union structures and among union officials - eg Belgium, Italy and the Netherlands.
- A few trade unions have taken measures to improve *cooperation* with trade unions in migrants' countries of origin - eg some unions in Portugal and the UK - or provide information to workers in these countries - eg the Central Organisation of Finnish Trade Unions ([Suomen Ammattiliittojen Keskusjärjestö, SAK](#)) has opened an information office in Estonia to inform potential migrants to Finland of employment conditions and rights there.

- Finally, much of the above refers to unions' views and actions with regard to legal migrant workers. In countries with large numbers of *illegal immigrants*, these seem to be a major issue for trade unions. Thus unions in countries such as Greece, Portugal and Spain devote considerable attention to supporting illegal foreign workers (and recruiting them in some cases) and seeking to regularise their situation and defend their rights. Regularisation is also, if to a lesser extent, an issue for unions in countries such as Belgium and Luxembourg.

Source: EIRO, "Migration and Industrial Relations"

## Case Examples of Unionizing Migrant Workers in Selected Countries and Industries.

### The Migrant Farmworkers of North America

*"The right to a just wage, the right to work free of forced labor, the right to organize... are routinely violated when it comes to farmworkers in the United States."* – Lucas Benitez, winner of the Robert F. Kennedy Human Rights award for 2003.

: "In the United States, nearly two million farmworkers, mainly immigrants, toll without rights, earn sub-living wages and exist in dehumanizing conditions. In the fields of Florida, California, North Carolina and other states, one million farmers earn less than \$7,500.00 per year. To earn \$50 a day a tomato farmworker must pick nearly two tons of tomatoes. The reason? The supply-chain model of global economics has tightened profit margins. In 1990 growers received 41% of the retail prices of tomatoes; by 2000 they were receiving barely 25%. Value is passed up the chain, while workers at the bottom pay the price."<sup>28</sup>

Unionizing the farmworkers of the United States of America has a long history that is tied up to the role of migrant workers and immigrants in the development and progress of the country. In fact, it was the migrant workers who built the railroads, planted and harvested the farms, and worked the industries of the USA in those times.<sup>29</sup>

There were the Chinese and Japanese migrant workers in the late 1800's that formed the first associations and strike for improved wages and conditions. They were organized by the Industrial Workers of the World (IWW). Accused of "stealing" American jobs, racist laws in the USA excluded the Chinese in 1882, and the Japanese in 1920.

After World War I, Filipino farmworkers were imported by the California growers when Spain ceded the Philippines to the USA in 1898. At that time, laws forbade Filipino women from entering the USA and Filipino men were prohibited from associating with women of other races. The reason: growers wanted to cut cost by employing single men only.

<sup>28</sup> OXFAM America, "Like Machines in the Fields: Workers Without Rights in American Agriculture", Research paper, downloaded from

[www.oxfamamerica.org/newsandpublications/publications/research\\_reports/art7011](http://www.oxfamamerica.org/newsandpublications/publications/research_reports/art7011)

<sup>29</sup> This sub-section was based on downloaded articles in [www.farmworkers.org](http://www.farmworkers.org).

In response to racism and poor working conditions, Filipino farmworkers began to associate in the early '30s. By 1934, "Filipino lettuce cutters and mainly white packing shed workers (AFL) struck the powerful Salinas Valley grower-shippers, demanding union recognition and improved conditions." However, the "divide and rule" tactics of employers was applied as the growers negotiated with the packing shed representatives while excluding the Filipino lettuce cutters. Instead "organized vigilante gangs were burning down Filipino labor camps, driving Filipino organizers from the valley and bringing in scabs to break the field strike."

Two years later, in 1936, when the contract expired, the packingshed union was also busted by the employers with "hired vigilante army of 3000, and used police and sheriffs to arrest and beat workers while escorting scabs into the shed."

In a parallel move, the militant Cannery and Agricultural Workers Industrial Union (CAIWU), together with the newly organized confederation of Mexican workers in the Imperial Valley, CUOM, went on to organize migrant workers and struck against the growers. Dubbed then as the 1933 "Cotton Strike", that was called and led by the CAIWU, the strike lasted 24 days and was successful, despite violent countermeasures from the growers, employing much the same tactics as they did before. Moreover, the Farmers Association, composed of growers, successfully pushed for anti-picketing legislation and got the CAIWU leaders arrested under a charge of "criminal syndicalism" or union organizing. That smashed CAIWU.

Then the more conservative AFL Teamster Union moved in, isolating the militants including the Mexican and Filipino field workers, and themselves unionizing the canneries and packing sheds workers. Also in those times, while the Congress of Industrial Organization (CIO) was expanding and becoming powerful in industries, the farmworkers were left largely unorganized and remained isolated from the new labor movement until the 1960's.

At about the same time in the middle of 1800's, the *bracero* or migrant worker (from Mexico) was already working the route. They were driven into migrant working because of their own poverty where they come from, the series of political upheavals in Mexico including the War of Secession and the Mexican Revolution, and the Treaty of Guadalupe that resulted from the North American invasion of Mexico in the middle of 1800's, from which was ceded to the USA the areas comprising the states of Texas, New Mexico, Arizona and California.

These Mexican workers were recruited by their own government to work in the agriculture, industries and service establishments in the USA.

A hundred years after, on August 4, 1942, the "Bracero Agreement" was signed by the governments of Mexico and the USA. This allowed the government-organized importation of migrant workers from Mexico.

Having mobilized for World War II, the USA needed extra hands to keep the war production and food production going. Thus began what may have been the first government-to-government agreement on migrant working.

The Bracero Agreement turned into a Program of massively recruiting migrant workers from Mexico to the USA. Despite the better terms and conditions outlined in the official agreement, however, the program turned into something else: *braceros* instead continued to experienced racism, low wages, poor working conditions, exploitation and oppression, upon which was founded the profitability of US agriculture.

The Bracero Treaty ended in May 30, 1963 but agricultural workers continued going into the USA till 1964. After that, they were deported, owing also to the introduction of mechanical cotton harvester. But having no work at home, they continued to “cross the borders” to work in US farms and came to be known as the “chile pickers”.

“The single most important reason for the disparity between the several dollars an hour paid to industrial workers in America and the \$0.40-\$0.85 an hour paid to farm workers is that industrial workers are organized into labor unions. The National Labor Relations Act, which is regarded as a bill of rights for industrial workers’ organizations, specifically excludes agricultural workers from its provisions. This means that employers are under no obligation to bargain collectively with their employees, even if every one of them has signed an authorization card. There is no way in which an employer of farm workers can be forced to hold a representation election. In addition to the exclusion of farm laborers from the NLRA, the organization of agricultural employees (in Texas) is made even more difficult by the failure of state law to protect workers who sign authorization cards from being discharged or discriminated against by their employers. Organizing a union (in Texas) has always been difficult: organizing a farm workers union has been thought impossible heretofore.” (*From “Sons of Zapata”, a literary piece written about the farm workers’ strike in Rio Grande City in 1966*)<sup>30</sup>

In the sixties, unionizing the farm workers would again pick up, that gave birth to the modern United Farm Workers of America (UFW) and the Farm Labor Organizing Committee (FLOC), both affiliated to the AFL-CIO, the Pineros y Campesinos Unidos del Noroeste (PCUN) or Northwest Treeplanters and Farmworkers United and a host of other non-governmental organizations forming a support group for the unionization of farmworkers, such as the Rural Coalition, The Federation of Southern Cooperatives, the Farmworker Network for Economic and Environmental Justice, the Farmworker Association of Florida, the Frente Democratico Campesino and a host of other networks.

They fought for union recognition and the right to collective bargaining, which to PCUN, for example, means, “the most effective and lasting way to improve farm worker conditions because it redresses the power imbalance between the growers and workers, and establishes respect, fairness and dignity as the bases for the employment relationship.”<sup>31</sup>

Organizing techniques vary, from direct organizing to providing services for farmworkers. Such services include translations, legal services, immigration services and mutual aid and protection.

Farmworkers’ Unions also make use of lobbying, deploying their extensive networks including inter-faith groups to influence the passage of laws that aim to guarantee the rights to freedom of association and to free collective bargaining. They found it useful to

<sup>30</sup> [www.farmworkers.org/sonsofz.html](http://www.farmworkers.org/sonsofz.html), downloaded 11/01/05

<sup>31</sup> [www.pcun.org/resources/aboutpcun.asp](http://www.pcun.org/resources/aboutpcun.asp) downloaded 11/01/05

support specific candidates in specific states to champion their advocacy for these rights.

In the case of the UFW, established by the great Cesar Chavez, it found the mixture of classical and non-traditional union techniques to be most effective: joining the civil rights movement to push for farm workers' rights, organizing unions for the purpose of collective bargaining, making use of pickets and strikes both as pressure tactics and organizing techniques, "long marches" to attract public attention to the cause of farmworkers, boycott of products of targeted companies to hit the companies and the growers where it hurts most, undertaking campaigns against the misuse and abuse of pesticides, fighting court cases in labor fronts, using the technique of union labeling, and providing direct services to members including housing, water and sanitation facilities, cooperative stores and mutual aid benefits.<sup>32</sup>

Box 6

### **8,000 Migrant Farm Workers Win Battle for Union Recognition in North Carolina**

ESTES THOMPSON, ASSOCIATED PRESS: More than 8,000 farm workers brought to this country under a federal visa program will get union representation under an agreement signed Thursday with the North Carolina Growers Association.

The deal, announced Wednesday, also calls for the Ohio-based Farm Labor Organizing Committee to end a lengthy boycott of Wayne County-based Mt. Olive Pickle Co., the nation's second-largest pickle company, the union said.

The agreements were signed during a news conference at a Raleigh church social hall, which was packed with FLOC supporters and more than a dozen farm workers who followed the event through translators. A cucumber adorned the signing table.

The N.C. Growers Association uses federal program to supply foreign labor to about 1,000 farms, many of which grow cucumbers for Mt. Olive.

Under a separate agreement with Mt. Olive, the company is to increase wages to workers and prices to cucumber growers by more than ten percent over three years.

Mt. Olive also will encourage farms that grow pickles to allow workers to have "visitors", including union organizers, without interference in what state AFL-CIO officials say is the largest unionization in North Carolina history.

<sup>32</sup> <http://www.ufw.org> and related stories available at this website

“I am one pickle packer who is glad to be out of a pickle today,” said Mt. Olive President Bill Bryan to laughter and loud applause from the audience. Bryan is a Methodist whose church hierarchy had endorsed the boycott of his company’s products.

Under the broader agreement, the FLOC may now sign up legal migrant workers who come to North Carolina under the federal H-2A visa program.

“Workers have never been able to speak for themselves, and the union agreement gives them an opportunity to do that without fear of retaliation,” said FLOC president Baldemar Valasquez.

“this agreement sets a standard,” Velasquez said at the news conference.

The union has been recruiting members on farms for years. Union officials say that about 2,500 of the Growers Association’s 8,500 workers already have signed union cards. They couldn’t become an official union until Thursday’s agreement, which authorizes employers to deduct union dues from paychecks.

The organizing committee launched a boycott of Mt. Olive in 1999, saying the company had a responsibility to improve working conditions on farms that grow its pickles. The company refused to budge, saying labor issues should be handled by farmers. No North Carolina groceries ever pulled Mt. Olive pickles from shelves.

But several major groups joined the boycott, most recently the National Council of Churches and the United Methodist Church. The union staged several protests a year outside groceries and company headquarters.

Under the agreement, FLOC workers do not have the right to strike. They also won’t automatically get higher pay – unless they pick cucumbers for Mt. Olive...

Mt. Olive said it also agreed under its contract to pay a three percent bonus to farmers who offer their employees workers’ compensation. Williams said the agreement will allow the company to avoid bargaining directly with the union, but benefit workers. (September 16, 2004.)

*Source: Downloaded and abstracted from the website of Organic Consumers Association (OCA)*

### Migrant Trade Union (MTU) in South Korea

Following the Asian financial crisis in 1997, South Korea experienced job losses where officially 8% of the labor force was then unemployed but actually where the rate was much higher. In fact, the more “decent jobs” among the South Korean “chaebols” have been drastically reduced owing to corporate restructuring including corporate closures. While official unemployment rate declined to less than 3% by 2003, continuing economic restructuring has given rise to the more widespread use of irregular workers, including migrant workers.

South Korea’s policies on migrant workers are incorporated in two laws: the older is called the Industrial Trainee System (ITS) and the newer law is known as the Employment Permit System (EPS). Under the first, employers may hire foreign workers for three years, who are then mainly employed by small factories as trainees. Being trainees, they are not entitled to protection of laws as workers. These workers perform

the 3-D jobs (dirty, dangerous and difficult) and are paid around US\$350.00 a month. In fact, the ITS became a source of cheap and docile labor for struggling small scale enterprises in South Korea.<sup>33</sup>

On the other hand, The EPS, which came into force in August, 2004 was then thought to replace the ITS. Instead, it became a separate law that runs parallel to ITS. The new law enabled the South Korean Government to apply strict standards for employers wanting to hire migrant workers, including payment of allowances. The new law also limited the employment of migrant workers for only three years and with only a single employer, making it possible for employers to have complete control over the workers. The law also mandated, among others, that migrant workers who have been in Korea for four years or more must first leave the country and reapply thereafter, without any assurance of being taken back. Those who leave will then be replaced by other workers who will be recruited through the new system, which in four years time may again become irregular or non-registered migrant workers.

Soon after the passage of the EPS, the number of non-registered workers rose to more than 200,000.

The Migrant Workers Trade Union (MTU) was formed on April 24, 2005 to represent more than 400,000 migrant workers in South Korea, about half of whom were non-registered. It is led by migrant workers themselves and is affiliated to the Korean Confederation of Trade Unions (KCFTU).

Less than a month after, on May 14, 2005, MTU's President, Anwar Hossain, was arrested by more than 30 police officers on his way home and was placed under detention at the immigration detention center in Chungjoo, two hours away south of Seoul.<sup>34</sup>

The MTU in South Korea is a merger of several migrant workers unions and other groups from Seoul, Gyeonggi and Incheon, to struggle for their basic trade union rights.

Under Korean laws, migrant workers are not entitled to freely associate, to collectively bargain and to take collective action or strike. According to KCTU, migrant workers work under conditions of "low wages, delayed wages, deterioration of working conditions and constant lay-off."

Further, KCFTU says that the MTU "plans to struggle for labour rights on the shopfloor, focusing on legalization of non-registered migrant workers. It will also actively fight for legislation of a labour permit system instead of the existing employment permit system."

MTU traces its roots to the Equality Trade Union Migrants' Branch of the KCTU that was formed in 2001 to demand for equality and to stop labor abuses against migrant workers arising from the immigration policy of the SK government.

In April 2002, more than 1,000 migrant workers protested against the then existing immigration policies. and the Equality Trade Union Migrants' Branch (ETU-MB) held a sit-down demonstration at the Myongdeung Cathedral for 77 days. Two key leaders who

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<sup>33</sup> [www.ahrchk.net](http://www.ahrchk.net).

<sup>34</sup> [www.kctu.org/maybbs/pdsview.php?db=kctuinfor2&coe=eng\\_action&n=25](http://www.kctu.org/maybbs/pdsview.php?db=kctuinfor2&coe=eng_action&n=25)

were arrested went on a hunger strike at the Hwa Sung Immigration Detention Center but who were later on deported.

Soon after, these two leaders faced prosecution in their country at the request of the South Korean authorities.<sup>35</sup>

But the migrant workers persisted.

“... Since 2002, migrant workers had been active through the Migrant Workers Branch of Equality Trade Union (ETU), and they are also active members of the trade union at Seonseo Industrial Complex in Daegu. ETU Migrant Workers Branch led the ‘Struggle Committee to Stop Enforced Deportation and to Attain Complete Legalization of Non-registered Migrant Workers’ in 2003 that started a sit-in protest in Myeongdong Cathedral. The protest continued for 381 days.<sup>36</sup>The MTU is, in fact, the fruit of the Myeongdong Cathedral struggle.

When the Myeongdong cathedral struggle ended, Gyeonggi and Incheon representatives of ETU Migrant Workers Branch met several times to prepare the establishment of an independent migrant workers trade union. During these meetings, the representatives resolved to aim towards a nationwide trade union, however, they decided to start off in Seoul and surrounding areas. The leaders resolved to build an independent trade union that will struggle against imminent challenges such as crack down and deportation, and strengthen the foundation on which to build a nationwide union.”<sup>37</sup>

### The IG BAU Model

“In September 4, 2004, Germany’s Trade Union for Building, Forestry, Agriculture and the Environment (IG BAU) announced the foundation of a European Migrant Workers Union. The new union addresses posted workers and seasonal workers in all industries, but in the initial phase will concentrate on migrant workers in construction and agriculture who work for a limited period of time in one or several EU Member States. The aim is to provide those workers with legal assistance and advice, support them in the event of sickness accident, help them to receive correct payment for work done and promote the provision of better accommodation. The European Migrant Workers Union is thought to be the first such organization to be formed within the European trade union movement.”<sup>38</sup>

The effort of the IG BAU is a culmination of intensive preparation in forming the European Migrant Workers’ Union (EMWU). The conception flowed from IG BAU’s campaign, called “There must be rules” (*Ohne Regeln geht es nicht*), was followed by a research survey on the needs and aspirations of migrant workers in Germany’s construction industry, which led to a union design on the nature, character, scope, aims and structure of the migrant workers’ union.

<sup>35</sup> [www.ahrchk.net/ua/minafile.php/2003](http://www.ahrchk.net/ua/minafile.php/2003)

<sup>36</sup> From November 18, 2003 to November 28, 2004

<sup>37</sup> KCTU, “Support the Establishment of Seoul.Gyeonggi.Incheon Migrant Workers Trade Union”, June, 2005.

<sup>38</sup> EIROnline

<p><b>Box 6</b></p> <p style="text-align: center;"><b>Services offered by the European Migrant Workers Union</b></p> <ul style="list-style-type: none"> <li>• Legal help and advice in various languages;</li> <li>• Support in the event of sickness and accident;</li> <li>• Support to ensure correct levels of pay – ie for workers to receive at least the German collectively agreed minimum wages, as required under the Posted Workers Act and to be paid for all hours worked;</li> <li>• Collective bargaining in order to improve pay and conditions for migrant workers;</li> <li>• Help to get in contact with German colleagues (language courses);</li> <li>• Help in finding better accommodation;</li> <li>• Lobbying in favour of migrant workers; and</li> <li>• Support for undocumented workers (it workers without an official work permit and residence status) so that they are able to organized themselves in the trade union structure.</li> </ul> <p>Source: EIROnline, op. cit.</p>
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The EMWU started with migrant workers from Poland, who forms the largest group of migrant workers in Germany. Eventually it is expected to include migrant workers of all nationality in all field of activity, not only in Germany but in all Europe, including providing union protection for irregular migrant workers. The union aims to set up offices in the countries of origin of the migrant workers, starting with Poland, and to address the migrant workers in their own language. The union is thought to be “under construction”, until the time that it can go on its own.

Funding of the organization initially came from a loan provided by the IG BAU, which the migrant workers’ union will pay in the process of expanding its membership and its financial capacity.

Its membership is of three types: full membership (with entitlement to vote); associated organizations; and non-voting members.

At the moment, full membership is limited to founding members, all of whom are leading officials of IG BAU. The full members will decide on the acceptance of other full members and other types of membership.

Associated members include trade unions and other organizations supporting migrant workers in Germany or elsewhere, who are to pay dues according to their size of membership and are entitled to certain number of votes.

The non-voting members are individuals who subscribe to the aims and purposes of the new union. While non-voting, they have the right to be informed about the union’s activities and expenditures as other members and to present proposals. Non-voting members who are migrant workers are entitled to receive services of the union after payment of a nominal entry fee of EUR 15 and a regular monthly contribution of EUR 12.

Current officers are initially made up of IG BAU officials, while the union is in transition. There are currently also two full time officials who are assisted by IG BAU area organizers.

The separate structure of the migrant workers union from the IG BAU was decided upon in order to set up a platform from which the “competition” between German workers and the posted foreign workers will be addressed, particularly experienced in the construction industry. This competition refers to the thinking of the local workers that foreign workers undercut existing rates of pay and may be threatening their jobs too. While a separate union will not erase the tension anytime soon, it is thought that the new union will become the platform from which to address this issue, among others.<sup>39</sup>

### The Nordic Response<sup>40</sup>

In Nordic countries, migrant (or posted/temporary) workers have the same rights as any other native or worker of the countries. These are enforceable in law, through collective agreements/application agreements that are not legally binding, as well as generally and universally applicable collective agreements, depending on the countries involved.

Together with the European “social model” the presence of strong trade unions can ensure that working conditions under laws or collective agreements are equally enforced among all types of workers, migrant workers included..

Among trade unions in Nordic countries as well as with other unions in Europe and with some Global Union Federations, there exist a number of Cross Border Services Agreements for union members, including migrant workers. The “main principle is that a migrant worker who is a member in a trade union in his or her home country should immediately apply for membership in the sister organization in the host country and will after that directly get the same services as every one else.”

However, an enlarged Europe with the presence of “Central and East European new member states with weak trade union movements and poorly developed social dialogue threatens regulated labour standards in advanced social democracies with strong trade union movements such as Sweden.”

The blockade in Vaxholm, Sweden, of a Latvian construction company, by the Swedish construction Union, *Byggnads*, is a case in point.

In November, 2004, the Swedish Building Workers’ Union, *Byggnads*, placed a Latvian company employing Latvian workers (posted workers) in the project site – *Lavel Un Partneri* -- under blockade in Vaxholm, just outside Stockholm for refusal to conclude a collective agreement with it.

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<sup>39</sup> This subsection was summarized from the article written by Heiner Dribbusch, Institute for Economic and Social Research, WSI, published in EIROnline.

<sup>40</sup> This subsection is based on two sources: “The blockade in Vaxholm”, in [www.byggnads.se/byggnads/38521,38519.cs](http://www.byggnads.se/byggnads/38521,38519.cs) and Zettenberg, Bert; “Migrant Workers: Nordic Countries Experience”, presented to the IFBWW Seminar on Migrant Workers, September 25, 2005, Tokyo, Japan. All quotations come from these two sources.

*Byggnads* insisted that “(A)ccording to Swedish law, trade unions have the right to take industrial action against companies who refuse to conclude a collective agreement. We want the Latvian workers to have the same rights as Swedish building workers.”

As a result, the construction company broke up the Agreement it had with the local authorities of Vaxholm who placed the order, and filed for bankruptcy.

The construction company was offered a contract by the Swedish municipal authority through its Sweden-registered subcontractor, the Baltic Bygg AB. The company was not a signatory to the agreements between the Swedish Construction Federation and the *Byggnads* and had no application agreement either.

Instead, *Lavel un Partneri* claimed it signed a collective agreement with the Latvian Building Workers’ Union and therefore had no need to sign another agreement with Swedish union, *Byggnads*.

However, the agreement that the Latvian company signed with a Latvian construction union provided for wages way below the standards of Sweden as negotiated by *Byggnads* for its members, although the company claims the amounts it negotiated with the Latvian union were more than twice the Latvian average.

The bone of contention is that, in the context of the newly enlarged European Union, in which the Nordic countries have become members, is it the law and collective agreement in the host country that prevails or the one of the country of origin? In a broader EU context, should the Posted Workers’ Directive (host country principle) be made to apply?

States *Byggnads*:

- *Byggnads* welcomes all construction workers who come to Sweden. However, we want everyone to work under the same conditions. For us it is only natural that everyone at a workplace is treated equally and that laws and agreements are complied with.
- According to the EU Posting Directive, it is the labour market regulations and legislation of the host country (i.e. the country you go to work in) that apply.
- Collective agreements lead to fair conditions without unfair competition and without exploitation of workers. Collective agreements do not only regulate pay but also stipulate other conditions such as working hours and the working environment.
- *Byggnads* is not working against the Latvian construction workers in Vaxholm or any other foreign construction workers either. However, what *Byggnads* has done is to put the Latvian company under a blockade since they have refused to conclude a collective agreement.
- According to the Swedish constitution, trade unions may take industrial action against companies that refuse to conclude a collective agreement.
- *Byggnads* concludes approx. 1,500 collective agreements every year. In 2004, 98 local agreements were concluded with foreign companies. In the same year, *Byggnads* also took industrial action against 21 companies which refused to conclude a collective agreement. Nine of these were foreign companies.
- According to an LO (the Swedish Trade Union Confederation) report, foreign labour is greatly over represented in fatal industrial accidents. Last year ten percent of all fatal

accidents involved foreign workers. Foreign workers, however, did not even make up one percent of the employees.

- There is risk that irresponsible companies offer cheap foreign labour at the cost of security and the working environment. In order to avoid this it is important that the host country's regulations apply without exception (the Posting Directive).
- The issue of a well-organized labour market is not just about the dumping of wages, social dumping or the exploitation of labour. It is also about unfair competition from companies. The employer organizations have not said a word about this. Usually they are quite happy to talk about how important it is to ensure that there are good opportunities for small companies. In this matter they have, however, remained silent. This is despite the fact that it is a matter of unfair competition which may eventually force small, serious Swedish companies (many of their own member organizations) to fiddle and circumvent the rule in order to fight off the competition, the alternative being to close shop altogether.
- Representatives for small companies should demand more order on the labour market. Competition under fair and equal conditions is a prerequisite if Swedish companies and the Swedish labour market are to evolve.
- Local authorities are being short-termist when they subcontract work to companies that neither pay tax nor contribute in any other way to better welfare in Sweden; all because they accept the lowest offer without having checked the company properly.
- We want everyone to have decent and fair conditions – regardless of whether they are Swedish or come from abroad or whether they work in Sweden or elsewhere.
- *Byggnads* and the entire trade union movement works internationally to help workers in other countries establish well-functioning trade unions so that their working conditions improve. Trade union rights are synonymous with human rights.

#### The CFMEU Experiment<sup>41</sup>

In Australia whose population is made up of almost 50 percent migrant workers or children of migrant workers, this project is about integrating a Portuguese immigrant worker into the largely insecure construction industry and into the union of workers in this industry via education and training.

The Construction, Forestry, Mining and Energy Union (CFMEU) of Australia makes use of education and training in the competencies of the trades it represents to advance the opportunities of immigrant workers under its jurisdiction.

In a case study, the immigrant works as a laborer is, at the bottom of the skills totem, fetching and carrying scaffolding for qualified scaffolders. Unable to communicate proficiently in the common language – English – used at work, not only is he unable to do his work well; he is also prevented from advancing in his job due to lack of training to obtain a Certificate of Competency issued and required by the State Authority to practice a particular construction trade. His job is also less secure in an already insecure industry. At the same time, “without adequate experience and training his understanding of Occupational Health and Safety – his rights and responsibilities – place himself and other workers at risk.” He is also restricted from participating in the democratic structures in his workplace.

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<sup>41</sup> This section is drawn from Anne Duggan's Country Report, contributed to the ILO's "Asia Pacific Regional Trade Union Symposium on Migrant Workers", from 6-8 December, 1999 in Kuala Lumpur, Malaysia, published under the same title by the ILO's ACTRAV, 2000 and put together by Raghwan and Michael Sebastian.

His training needs were assessed by the union, after which he was sent to an introductory course in English Language and Literacy that also taught about Emergency First Aid. The successful completion of this entry level course in Language and Emergency First Aid soon sent him to other competency-based training courses for the construction trades, all of which he also successfully completed and even topped.

An important element in this intervention is the arrangement whereby all his training were paid time-off, courtesy of the collective bargaining agreement of the union with the employers, which allowed him to continue receiving his salary to maintain himself and his family. The absence of such arrangement is what usually keeps workers from advancing in their trades or careers on account of their family responsibilities.

A key to this model is the integration of language into a competency-based training delivery system that leads to obtaining a Certificate of Competency Assessment as required by law to work in the trades.

This story “illustrates how migrant workers can be meaningfully represented by trade unions. At the site level, (Joaquim’s) shop steward was alert to the disadvantages that (he) faced and used the policies and services of the Union to do something for him. .. The shop steward used the Collective Bargaining Agreement to ensure that all (Joaquim’s) training was carried out during paid worktime.”

“On site his fellow unionists applied union policy on training and OH&S to provide (Joaquim) with proper practical experience and support. At the Union’s base, the Education and Training Unit integrated into its delivery system strategies to assist (him) to develop essential general educational skills with the relevant vocational skills. In this way the Unit attempted to ensure that the learning it offered served a full range of (his) employment needs.”

#### NUBCW-NFCCWU Pilot Project

As a result of the IFBWW Asian Regional Office’s Migration Project, the NFCCWU has developed a national policy on migrant workers.

In May 2, 2004, the National Federation of Chinese Construction Workers’ Union (NFCCWU) signed a historic framework agreement with the two leading employers in the construction industry in Taiwan – the Chinese National Association of General Contractors (CNAGC) and the Taiwan Regional Engineering Contractors (TREC).

Initially very little interest was shown by the CNAGC for a social dialogue to recognize the union and workers’ rights, until the government’s Bureau of Employment and Vocational Training Administration (EVTA) required CNAGC to get the approval of the union NFCCWU to recruit migrant workers; the union also lobbied government to pass a resolution to the same effect. Thus,

“In the beginning of 2005, the CNAGC contacted the union to discuss the recruitment of migrant workers. After several meetings with parties that included the NFCCWU, the CNAGC, EVTA, and the TREC, an agreement was finally reached on April 1. Within a month, the agreement was approved by the membership of both employers’ associations and the union. A key feature of the agreement states that the CNAGC

agree to employ only local workers. In the case that the NFCCWWU is unable to provide sufficient manpower, then they will use foreign workers. However the GNAGC agreed that all foreign workers working in companies associated with the GNAGC will be allowed to join the NFCCWWU. Finally, the CNAGC agreed to organize a joint committee on the recruitment of foreign workers under the regulation set by government.

“What began as a discussion on the recruitment of migrant workers developed into the signing of this agreement, undoubtedly a significant event in the Taiwanese labor movement.”<sup>42</sup>

Next, the NFCCWWU conducted seminars on migration for its key national and local militants to discuss with them what consequences may result from the agreement signed with the employers and to develop a structure that will integrate migrant workers into their union. In a parallel effort, the NFCCWWU is presently discussing possibilities of a union to union arrangement for managing migrant construction workers with its counterpart in the Philippines, the National Union of Building and Construction Workers (NUBCW).

With the enabling support of the IFBWW Regional Migration Project, both the union in Taiwan and the Philippines recently met to exchange ideas.

For its part, the NUBCW studied possible arrangements for it to organize and manage the flow of Filipino migrant workers in construction. Within the legal framework in the Philippines, the study identified possible roles the NUBCW can play in the process of sending migrant construction workers abroad. It also identified the roles of government and private agencies.

The roles identified start with documenting intending migrant workers who are its members, the skills training of these workers, helping them to be placed in jobs abroad, representation of their rights and interest with the social partners, repatriation, and possible actions to re-integrate these workers when they come back.

The study also suggested certain roles to be played by its union counterpart in Taiwan and the IFBWW Regional Office as well as provide information on how this can be realized.

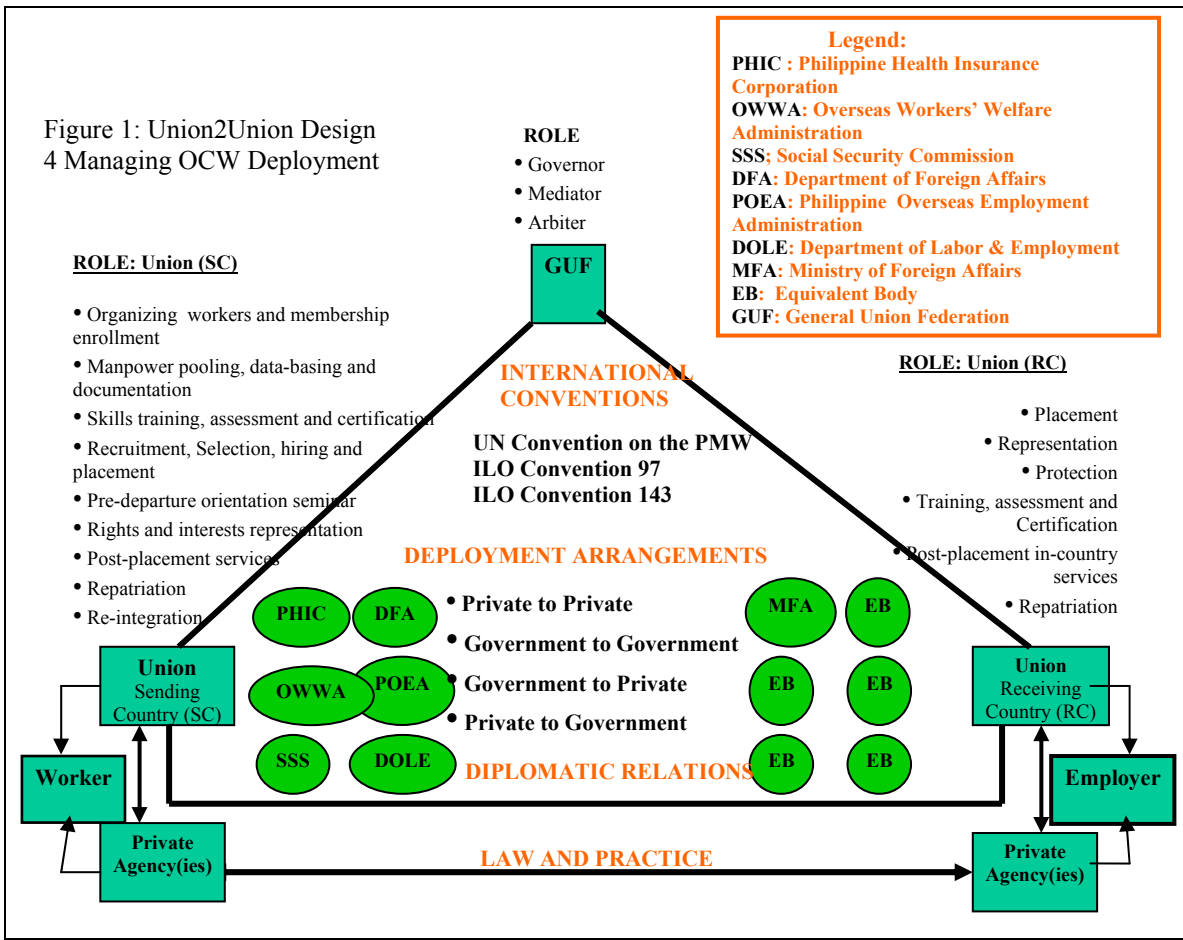
Certain preliminary agreements were reached, including nailing down some action points that each will undertake in their respective countries in order for the unions to carry the project nearer to its realization, after which a final round of meetings is planned to discuss and finalize a union to union agreement.<sup>43</sup>

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<sup>42</sup>Lee, Jin Sook; “Presentation for the Hong Kong National Seminar on Migration”  
August 28, 2005 YMCA International Hostel Kowloon, Hong Kong

<sup>43</sup> The study, “Strategy paper for a union to union deployment of overseas contract workers” was commissioned by the NUBDCW-IFBWW with support from the Freidrich Eibert Stiftung (FES), and is due for completion at the end of September, 2005

Figure 1: Union2Union Design  
4 Managing OCW Deployment



### III

## Improving the Trade Union Models: Towards a Framework

### Towards an Overall Framework: Decent Work

The rights- based approach to tackling the issues brought to fore by migration finds a practical framework for implementation in the concept of decent work.

The ILO defines decent work as “opportunities for women and men to have decent and **productive work** under conditions of **freedom, equity, security** and human **dignity**.” In this definition are drawn six dimensions of decent work, denoted in bold letters.

For convenience in integrating ILO’s many programs, decent work has been divided into four sectors: employment, rights at work, social dialogue and social protection.

From decent work flows two of the most fundamental of all human rights: the right to life and the right to develop as a human person. Decent work also becomes the means by which to realize these two most fundamental human rights.

The right to decent work carries with it the right to freedom of movement, so that the worker can seek and find the level of decent work wherever in the world that suits his or her needs and those of his or her family, but without having to “rob” another worker of the same right.

That opportunity being present, and having work, a worker can begin to claim and assert all his or her fundamental rights at work, including freedom to associate, to freely bargain, equity at work and all other appurtenances to working with dignity in a work-based society, as befits every human being.

With decent work, the worker can again claim, assert and realize her or his right to develop as a human person, a development that is both sustainable and self-directed.

### Union to Union Arrangements

Unions play crucial roles in promoting decent work, and in giving meaning to two of the most fundamental human rights: to life and to develop. It is the only known institution today that can claim truly as the vehicle of, by and for workers in the search for a good life and a good society.

For these reasons, unions are impelled to organize, protect and advance the human and trade union rights of all types of workers, not the least of which are the migrant workers.

Most of the good practices by trade unions, however, lack the element of union to union cooperation in the sending and receiving countries in order to manage the flow of migrant workers and to protect them at both ends. What usually exist are independent

initiatives by trade union organizations in host countries to organize and protect migrant workers who are already inside their countries.

A special case, however, is presented by the European trade unions where, because of its regional integration into a European Union and due to the strength of unions in this region, an EU-wide policy and program on migrant workers have been negotiated and is in place. The efforts exerted by IG BAU to establish what could be a pan-European Migrant Workers' Union reflects that reality.

Consequently, unions in receiving countries mostly carry the burden of organizing and protecting migrant workers when they arrive in the host countries. Migrant workers are either integrated within the union structures of receiving countries or are separately organized and structured.

On the other end of the pole, unions in sending countries lack the resources for organizing intending migrant workers at their home-base, much less in enlisting them as members of their unions and in ensuring that they could be protected by unions in the receiving countries. Lack of coordination between unions in receiving and sending countries complicates this problem. The Vaxholm blockade in Sweden may be a case in point as also the pilot project of the Taiwan and Philippine unions.

This is an area where the international trade unions and/or the global union federations can play an important role.<sup>44</sup> The "UNI passport" model and those being built or supported by the IFBWW readily come to mind.

They can enable and support their affiliates in both receiving and sending countries to enter into practical agreements or arrangements, according to possibilities extant in each country or union, which can manage the documentation, recruitment, placement, employment, protection, representation, repatriation and reintegration of migrant workers within their respective jurisdictions.

### **Cultural Integration through education and training**

Language and acculturation play an important part in integrating to the extent possible of the migrant workers in the host countries' unions and societies. In the case example of an Australian Construction Union, the union trained immigrant construction workers in Health and Safety and in other competencies required for the construction trades, using English as a medium of instruction. In no time at all, the immigrant, formerly an unemployable worker not only is helped by the union to be placed in a construction job, but also by the worker's own initiative and persistence, he soon got promoted on the job and earns a respectable amount for himself and his family. Besides, it is also a way of increasing union membership at a time when its membership base is being decimated by the negative consequences of neo-liberal globalization, and, thus, also the union's ability to represent the workers' aspirations in social dialogues with every social partner.

Pre-departure orientation seminar conducted in sending countries before a migrant worker is sent abroad presents the basics of the culture in the country of destination. This is often deepened by certain requirements for migrant workers to learn the basics of

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<sup>44</sup> An important resource in this connection is the ICFTU's document on "No to racism and xenophobia: plan of action for trade unions", appended in this paper for ready reference.

the language in their country of destination, which opens up sooner or later the migrant worker to the cultural mores and tradition of their country of destination. Learning such, the migrant worker is able from the very beginning to acculturate, and more specifically to communicate with the employers and the native population and to go about in the country of destination. Racism and xenophobia can also be mitigated this way.

Two cultural integration models may be worthwhile exploring, particularly for the host countries, also for this purpose. The first refer to the “salad bowl” model; the other to the “melting pot” model.<sup>45</sup>

In the “salad bowl” model, each race, nationality, religion, political belief and culture is accepted and tolerated for what they are and results in a multi-racial and multi-cultural, religion-tolerant society. In the “melting pot” model, the cultures are “homogenized”, which results in a “hot-pot” or potpourri of cultures, with a new culture emerging therefrom.

Whichever is chosen as a model by those concerned should be their free and informed choice but always allowing for toleration and respect for each other’s views.

### **Social Security and Protection**

The trend in the developed countries on the social protection of migrant workers is to provide them access, either at par with the nationals or natives or as a special arrangement within established social protection schemes.

In some developing countries, formerly employed workers are lifetime members of their countries’ social security systems but because they no longer pay their premium regularly their access to benefits are limited. Alternatively, voluntary systems are set up but very few migrant workers register as members precisely because of its voluntary nature and the lack of orientation for migrant workers on the value and necessity of institutional social protection.

Moreover, such arrangements may seem inadequate. Most migrant workers will not become permanent residents or citizens in the host countries; they would go back to their countries of origins either to pursue their careers or to retire therein. Since social security systems have their own rules of benefit accession, requiring, for example, certain number of payments before a member can access the benefits of the system, this leaves a gap in particular for migrant workers who pay their contributions but can not access the longer-term benefits of the system.

Furthermore, only a few among sending countries can re-integrate the returning migrant workers into their established and legally mandated social security systems, which leaves a gap in the adequacy of social protection for these workers in their respective countries, especially concerning medical care and pensions.

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<sup>45</sup> The original suggestion of these two models came from Jin Sook Lee during one of the informal discussion with her by this writer.

Even as certain countries have established voluntary provident funds for migrant workers, their coverage and benefits remain minimal..<sup>46</sup>

A trend towards responding to this inadequacy relates to the joint memorandum between the social security systems of sending and receiving countries for each to cover the migrant worker under their respective systems and to transfer certain benefits from receiving to sending country's social security system or vice versa when the migrant worker finally returns to the country of origin.

## Regional Advocacy in Asia

In this part of the world, the migration issue from the point of view of unions has had little hearing in the APEC and ASEAN, except in the Bangkok Declaration on Trafficking of Persons. With some certainty, both these regional groupings are following the road that Europe has trail blazed in its arrangements for trade and investment but not as well in the social dimension of regional integration.







This is one agenda that Asian unions can pursue. Already, the beginnings can be found in the initiative of the ASEAN Trade Union Council to campaign for an ASEAN Social Charter. The Charter, however, does not make direct reference to a response on the issue of migration and migrant workers. Nonetheless, the link that the proposed Charter makes to ILO Conventions, to the ASEAN Declarations on social development and on Decent Work can be the opening into which a region-wide response to addressing the migration issues can be made.

Since the IFBWW Regional Office is part of the council that is planning for the campaign to promote an ASEAN Social Charter, the appropriate connections can be smoothly facilitated.

Finally, FES and the National University of Singapore have sponsored and carried out country studies directed at examining how to strengthen the working arrangements on the migration issue between and among ASEAN Non-governmental Organizations and trade unions.

In their draft Findings and Action Plans, the conference called for this purpose, in which the IFBWW Regional Office has participated:





Identified the issues as follows:

-  Re-conceptualization / Rethinking the concept of trade union work and labor movement;
-  Need for dialogue between Trade Union – Migrant Labor NGO leaders;
-  Avoid duplication of services;
-  Important to tap into regional networks and other interested groups such as the Bar Councils;
-  Document existing trade union and migrant labor NGO cooperation
-  Web-based information dissemination;

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<sup>46</sup> This is the case of the “Flexi-Fund” for overseas Filipino workers set up by the Philippine Social Security System.

And made concrete proposals as follows:

-  Publication of the country studies;
-  Network for Trade Union – Migrant Labor NGO collaboration  
(Raise the issues) during the WTO Ministerial Conference in Hongkon
-  The project should include the East Asian region
-  Conduct of network meetings and regional conferences.