

Ten Key Messages Towards the UN Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration

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Marrakesh



1. *Migration and Development: Addressing the Drivers and Root Causes of Forced Migration*

Migration is not a tool for development.

The claim that “migration is a source of sustainable development” and “fostering and facilitating the positive effects of migration for the realization of all SDGs” (*Sustainable Development*, Objective 19) appears to be an exaggeration of the benefits of migration and ignores the root causes. Migration cannot realize the achievement of the SDGs. But achievement of the SDGs can realise *migration by choice*, in contrast to migration out of necessity, which unfortunately, is the majority of migration that is happening today.

It is important to view migration holistically, addressing the opportunities and challenges in the whole migration cycle, with priority placed on the protection and promotion of the human rights of all migrants, while equally addressing sustainable development, root causes and drivers of migration.

Coherent, rights-based and sustainable migration policies can enable a positive migration experience and benefits for migrants, origin, transit and destination countries but must ultimately work towards reducing dependency on migration.

Efforts towards creating decent work, promoting democracy and peace and sustainable development in the place where people live, must be the priority, if we are to make migration a choice and not a necessity. Therefore, as we speak of the whole of government and whole of society, we must speak of the whole of SDGs in the Global Compact.

The GCM commits to minimizing the drivers and structural factors that compel people to leave their country of origin (Objective 2) and the timely and full implementation of the 2030 Agenda for Sustainable Development. It commits to investing in programmes that address the drivers and structural factors that compel people to migrate, such as in poverty eradication, health, education, inclusive economic growth, infrastructure, urban and rural development, decent work, climate change mitigation and adaptation, disaster risk reduction, and protection of human rights. These programmes are essentially contained in the 2030 SDGs, which can *fully and effectively be delivered through public services*. We see the Global Compact and its alignment with the 2030 SDGs as a strong argument to invest in quality public services in both countries of origin and destination. By ensuring access to quality public services, we are working to (1) address the drivers and structural factors in countries of origin, including conflict and climate-related displacement and (2) promote inclusion, social cohesion and protection of human rights and access to basic services for migrants and host communities.

Public services are human rights. Public services support the right to life and *to save lives*, the right to health, the right to education, the right to safety, the right to decent shelter, sanitation, the right to public spaces and community life, the right to social protection, the right to social services and the right to decent work, among others.

Public services are public goods that are vital in fighting inequality, in promoting social justice and in supporting inclusive and resilient communities.

Adaptation strategies and sustainable response to conflict and climate displacement require strong and effective infrastructure and public services to respond to the needs of those who are displaced, whether internal or across borders, and the communities that host them. Along with access to services is access to decent work in bridging

humanitarian and crisis response with development. On this, ILO Recommendation 205 (Employment and Decent Work for Peace and Resilience) and the ILO Guidelines on Public Emergency Services provide the guidance and ensure standards.

2. Rights-Based Normative Framework in Migration Governance

The rights-based normative framework, grounded on international human rights norms and labour standards, takes primacy in migration governance. The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Conventions on Migrant Workers (ILO C97 and C143) provide the comprehensive and practicable framework in developing migration policies. We welcome the commitment in the GCM supporting action towards ratification and effective implementation of these instruments.

The New York Declaration for Refugees and Migrants clearly states that “refugees and migrants are entitled to the same universal human rights and fundamental freedoms, which must be respected, protected and fulfilled at all times.” The GCM, in differentiating between refugees and migrants, reiterates that only refugees are entitled to specific international protection as defined by international refugee law. We must be careful that this differentiation does not lead to discrimination between migrants and refugees, but a reiteration of the full entitlement to human rights, whether one is a migrant, asylum seeker or a refugee.

We note with concern the repeated emphasis on the principle of national sovereignty and how this justifies the differentiation of treatment between regular and irregular migrants, management of and security of borders (Objective 11) and immigration detention (Objective 13). The sovereign right of States equally includes the obligation to protect, promote and fulfil the human rights of all persons within their territory. Ensuring that national sovereignty is exercised in accordance with international law as stipulated in the GCM, must fully include international human rights and humanitarian law.

3. Promoting the Human Right to Access Quality Public Services: Towards Inclusion, Social Protection and Fighting Racism and Xenophobia

Public service workers, along with local authorities, are at the frontlines in providing vital services such as emergency response, reception and registration, health care, shelter, food, social services, education, job placement and integration. Ensuring adequate funding and building the capacity for public service workers in delivering quality public services for migrants, refugees and host communities will not only address inequality but will contribute to inclusion, social cohesion, sustainable integration of migrants and combatting racism and xenophobia.

Differentiating access to services between regular and irregular migrants is a weakness in the GCM that must be overcome (Objective 15).

All migrants, regardless of status, must be able to access quality public services without fear and on the basis of equal treatment and non-discrimination. Though the GCM stipulates cooperation between service providers and immigration authorities, this cooperation must include a clear agreement of separation of functions (firewall) in order to guarantee safe access to justice and to public services for migrants, particularly undocumented migrants, who are in the most vulnerable situation.

Quality public services support the delivery of and access to social protection. It is imperative to *keep public services in public hands* to preserve the *public good*, while promoting good governance, regulation, transparency and accountability in their management and delivery.

This include strengthening capacities for service provision and facilitating non-discriminatory access (para 31e) by funding public services, fighting privatisation and ensuring adequate and well-trained staff working in safe and decent conditions in delivering these services.

It is equally important to emphasize access to quality public services for all, i.e. migrants and host communities, in order to support social cohesion and to fight racism and xenophobia.

The toxic and misleading narrative of the far right in using migrants as scapegoats for rising

inequality resulting from neoliberal policies that led to the dismantling of jobs and public services must be countered. Workers, progressive leaders, trade unions, civil society organisations and communities, including migrant communities themselves, have resisted and continue to strongly resist this negative narrative.

In putting *People Over Profit*, PSI unequivocally condemns such racist, xenophobic, anti-migrant and anti-poor propaganda and strongly commits to the human rights-based approach to the treatment of migrants, refugees and forcibly displaced persons and defending their right to decent work, social protection and access to quality public services.

4. Fighting Privatization

Privatization and dismantling of public services lead to impoverishment of communities, widening inequality, destruction of livelihoods and the environment and drive forced migration. Migrants and displaced populations are among the most vulnerable in the absence of public services.

PSI has documented the social, economic and dehumanising effects of privatisation of public services on migrants, asylum seekers, refugees and the workforce that delivers the services.

For instance, while government-led detention centres are replete with problems and abuse, commercialisation of detention services further worsens the situation. The growth of for-profit detention centres to hold migrants and asylum seekers as they are processed by receiving governments deserves serious attention. Trade unions from around the globe are sharing their concerns and taking coordinated action to stop this shameful profit-making model. Furthermore, there is the disturbing trend of using public service pension funds as investments in these companies that profit from the privatisation of prisons. In light of the many inherent risks, particularly the ethical and human rights violations, unions are pushing to have these pension funds divested from these companies.

PSI says no to the use of detention as an immigration policy and strongly rejects the overemphasis placed on border control and militarisation, outsourcing of services, push-backs on migrant and refugee rights, and placing security

measures that undermine *human rights* and *human security* for the whole of society.

5. Promoting Decent Work, Fair and Ethical Recruitment and No to Recruitment Fees

PSI promotes fair and ethical recruitment and safeguarding conditions for decent work (Objective 6), while advancing the 2016 ILO Guidelines and Principles on Fair Recruitment. PSI strongly maintains its position in prohibiting the charging of recruitment fees and related costs on migrant workers. See PSI Campaign #NoRecruitmentFees, www.world-psi.or/nrf.

We emphasise that States have the *ultimate responsibility* to govern and regulate international recruitment in line with international human rights norms and labour standards. On this, we support government-to-government recruitment, particularly on health worker migration. The Germany-Philippines bilateral labour agreement (BLA) on Nurses is a best practice example. We also emphasise the role of public employment agencies in implementing fair recruitment, ensuring transparency, anti-corruption and protection of whistle-blowers.

6. Multilateral and Bilateral Labour Agreements

Multilateral and bilateral labour agreements are necessary in facilitating rights-based labour migration and social protection. However, these agreements must be transparent and are fully in line with international human rights norms and labour standards, with the direct involvement of social partners. In view of this, PSI unions bring the experience from their involvement in the **Germany-Philippines Bilateral Labour Agreement (BLA) on the Deployment of Filipino Health Professionals to Germany** that was signed in 2013. The agreement includes all the elements of worker protections, fair recruitment, non-discrimination, trade union rights, social security and human resources development. It includes the trade unions, PSLINK in the Philippines and Ver.di in Germany – unions affiliated to PSI – as part of the Joint Monitoring Committee within the BLA. The unions are involved in monitoring the implementation of the agreement, including through on-site visits and dialogue in the Philippines and in Germany. This

example shows how social dialogue and joint engagement in promoting workers' rights, decent work and fair and ethical recruitment, is possible within a bilateral labour agreement.

Access to and portability of social security for migrant workers must be guaranteed and governed by multilateral or bilateral agreements, in line with international human rights norms and labour standards.

7. Skills Development and Mutual Recognition of Skills and Qualifications

The mutual recognition of skills and qualifications is an important aspect of work for PSI, particularly in the health and care sectors. PSI unions represent around 7 million workers in the medical, health, nursing and social services sectors worldwide.

Mutual recognition of skills and qualifications must take into account fairness, non-discrimination, equality of opportunity and treatment and protection of human and labour rights. With mutual recognition, must come mutual responsibility by States to ensure the sustainable development of the health workforce in both origin and destination countries.

We welcome the inclusion of trade unions, Objective 18 (e) relating to global skills partnerships (GSP). However, development of GSPs need to be treated with care and vigilance by trade unions, to ensure compliance with decent work, labour rights and inclusive participation of trade unions and civil society. Sustainable development, human rights and equity issues, particularly as concerning partnerships in critical skills such as in the health and education sectors must be fully integrated in these discussions. Reference to international standards, such as the UN and ILO Conventions on Migrant Workers and the WHO Code of Practice on the Ethical Recruitment of Health Personnel is an important starting point.

8. Gender Perspective

The gender perspective must be fully incorporated in the Global Compact on Migration. Discussion and outcomes must take into account addressing the vulnerabilities faced by women migrant workers, but likewise emphasize on women's

empowerment and agency through access to quality public services, access to justice, decent work, trade union rights and gender responsive policies and interventions.

9. Child Rights in the Global Compacts

PSI supports mainstreaming child rights in the Global Compact on Migration and the Global Compact on Refugees, building on key areas, namely, promoting non-discrimination and integration, the best interests of the child, children's access to services, ending child immigration detention, promoting durable solutions, and child protection. We are part of the global Initiative on Child Rights in the Global Compacts (<http://www.childrenonthemove.org/>).

10. Recognition of Trade Unions as Stakeholders in the Global Compact and the lead role for ILO on Labour Migration and Mobility

We strongly welcome the recognition of the role of trade unions, along with civil society, in the Global Compact, as specifically mentioned in the guiding principles and implementation aspects of the GCM.

In furthering the contributions of trade unions on *labour migration*, which is a critical dimension of international migration, we welcome having the International Labour Organization, a UN specialised agency with the competence and unique tripartite structure, join the core group of the UN Migration Network, which will be the main mechanism within UN system to implement the GCM.

The GCM can only be successful if it can ensure the inclusion and full participation of all stakeholders. Trade unions, as the most representative organisations of workers, including migrant workers, can play a critical role in bringing the Global Compact from the global to the grassroots level. Public services trade unions are ready to play this role. Through our actions, we remain committed to building good practices and evidence base to support the rights-based normative framework of the GCM.

Specifically, in the way forward, PSI joins the call of the trade union movement for:

- A strong rights-based approach to the implementation of the GCM;
- Guaranteed participation of trade unions and civil society organizations in the Working Groups to be set up as part of the UN Migration Network;
- Full recognition of the centrality of the decent work and fair migration agendas on labour migration in the implementation plans of the Network;
- Full recognition and utilization of the ILO's institutional knowledge, tripartite structure and normative framework, as well as operational capacity and expertise on the area of labour migration, fair and ethical recruitment and decent work;
- Adoption of social dialogue as a key mechanism for the engagement of the social partners in the implementation, follow-up and review of the labour migration and mobility components of the GCM.

About PSI

Public Services International is the global trade union federation representing more than 20 million workers, represented by over 700 unions in 154 countries and territories. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity.

PSI champions human rights, advocates for social justice and promotes universal access to quality public services. PSI works with the United Nations system and in partnership with labour, civil society and other organisations.

For more information on PSI's Migration and Refugee work:
www.world-psi.org