



4.05 Institutionalize and Mainstream the Anti-Discrimination and Labour Rights of Migrant (Foreign) Workers in Agriculture and Across the Food Chain

1. What, in brief, is the solution?

Using a right-based anti-discrimination and labour rights framework including greater access to open work permits and permanent residency for migrant (foreign) workers in agriculture and across the food chain. In doing so, labour and other protections will be strengthened, and food security overall will be achieved taking into account the most marginalized persons in the food sector, including subsistence farmers, women, Indigenous persons and socially and culturally racialized persons. In this context, migrants refer to those who have crossed state borders and not those who are internal migrants.

Robust policy and regulation reform is required in order to advance access to justice for migrant/foreign food workers. The primary systemic access to justice barriers that food workers are faced with include a) lack of adoption of international human rights and labour standards in the legislation b) lack of enforcement of the standards in the domestic system c) lack of collective bargaining rights and discouragement of worker organization e) precarious employment or legal status which has a chilling effect on bringing forward complaints where rights have been deprived or denied, f) the egregious power imbalance between labourers and employers which further marginalizes migrant/foreign food workers, g) overly bureaucratized avenues to status resolution mechanisms, and h) the lack of accountability among state actors and the prevalence of impunity of employers and corporate interests.

The first step to address the access to justice crisis for migrant/foreign food workers is to increase access for labourers to rights and entitlements under the law. However, rights and entitlements are often mediated by citizenship status and cannot be meaningfully accessed by those with foreign status. For example, right to family life is enshrined in international law and in the constitutional law of several countries. Yet, migrant workers are denied this basic right. In countries where health and safety and employment laws extended to all workers, irrespective of status, migrant workers in the food sector still labour and live in deplorable working conditions because they fear employer reprisal and deportation if they lose their jobs. There is no loss of income support for workers once they go back to their countries, even when they are eligible for compensation or access to social rights and assistance, which is predicated on citizenship. Hence, institutionalizing rights for migrant workers must have a policy for regularization of status and work permits that are not employer controlled. The regulatory changes must address exploitation and debt servitude brought about by contractors and recruiters, often with knowledge of employers. Labour inspection must be prioritized. Inspections should be extended to housing (since they are often housed at the workplaces and farms). The power imbalance, and the precarious working conditions that directly flow must be counteracted with reform which requires that employers are accountable to uphold the human rights and dignity of food workers.

Secondly, racism and anti-discrimination, with special protections for migrant workers, must be mainstreamed across all food sector policies.

Third, special programs must be initiated to provide support to the workers pre- and post- migration, so that workers have knowledge of their rights and feel protected enough to avail of them. These programs must aid the workers and protect them from exploitation by contractor and recruiters; provide housing and educational help; and skills and language training. In recent years, legal and policy interventions have been developed, at a national level, in order to prevent labour exploitation, to foster transparency in supply chains, and address some of the structural factors which produce migrants' vulnerability, such as isolation and lack of the access to social services. Other practices have promoted a different



agricultural production model by creating models of alternative and short supply chains. Certifications should include treatment of migrant workers. National campaigns to raise awareness at all levels to condemn the social acceptability of abusive and xenophobic practices in the agricultural sector, with special concern to women workers, have to be a part of this solution. Training programs for members of trade unions, NGOs, labour inspectors, lawyers, law enforcement agencies, and judicial authorities on racialized, citizenship, and gendered aspects of labour exploitation would be part and parcel of a systemic response. These need to be mainstreamed and institutionalised at an international level. Lastly, strengthened collective organization, and migrant policy can be reimagined to center the voice of food workers by creating avenues for food workers to demand protection without fear of reprisal. Implementation on a domestic scale must be closely observed to align strengthened labor standards on a global scale. Labour policy reform can create more effective social dialogue between labourers and employers by empowering labourers at the grassroots level to organize and advocate on their interests. The role of trade unions must be strengthened so that migrant workers can be included. Innovative forms of collective organization in the form of worker collectives must be encouraged. These worker collectives can collaborate with small farmer collectives to strengthen food security overall.

2. What was/were the source(s) from which this solution emerged?

Addressing discrimination in labour markets can only be accomplished with policy and institutional reform which centers the voice of food workers and empowers them to enforce their human rights. As early as 2001, a joint submission by the ILO, IOM, and OHCHR to the World Conference Against Racism, titled “International Migration, Racism, Discrimination and Xenophobia”, pointed out how the migrant workers are specifically employed in dirty, dangerous and difficult (3D) jobs such as plantations, large corporate farms, and food processing, that often many citizen workers do not want to engage in. The discrimination results in inadequate regulations and enforcement of basic labour and human rights and is invisibilised by their “foreigner” status.

The principle of equal treatment of migrants in matters of employment has been enshrined in several ILO Conventions and Recommendations. The 1949 Convention No. 97 concerning Migration for Employment proscribed discrimination against immigrants in respect of nationality, race, sex, or religion in matters of remuneration, allowances, hours of work, overtime, holidays with pay, minimum age, restrictions on home work, apprenticeship and training, membership in trade unions and benefits of collective bargaining, accommodation, social security (subject to some limitations), employment taxes, dues or contributions, and legal proceedings. The ILO’s 1975 Migrant Workers Convention No. 143 detailed the rights of migrant workers to family reunification, to preserving national and ethnic identity and cultural ties with their countries of origin, and to free choice of employment after two years of lawful residence for the purpose of employment. The 1990 International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families provides a comprehensive legal framework for protection of migrants and also points out their vulnerability to xenophobic hostility that sets a barrier to their accessing justice. The Convention demands that migrant workers be seen not as economic entities but as social entities.

During the pandemic, the situation of migrant/foreign workers in agriculture in several countries demanded quick responses. For example, Italy’s Minister of Agriculture called for a regularization of migrant workers, which means granting them permanent residence. Meanwhile in Tunisia, the government suspended visa expiry dates and confirmed financial aid specific for migrants. Germany is instituting policies to examine sub-contractors in the meat industry to address the concerns around living and working conditions of food workers.

3. What problem is it trying to address within food systems?



Migration is a reality in the food sector in all countries given the seasonality and labour intensiveness in agriculture and the mass production mechanisms in food systems that push labour wages down. This results in millions of workers (including subsistence farmers) crossing borders to work in other countries to earn their livelihoods. The “foreign” status of the workers increases their precarity as they live and work in exploitative, unregulated conditions, isolated without their families, and in a status popularly called “permanently temporary”. Circular and seasonal migration results in their workers living and working in foreign countries for a large percentage of their working life, particularly vulnerable to human rights abuses. Many of the workers migrate as a result of Indigenous displacement and are often of different ethnicity and race in the foreign country. Thus, their exploitation is a result of the intersections of poor labour regulations, xenophobia, and racism.

Currently, the precarity of foreign/migrant food workers without security of legal status creates a significant access to justice barrier. The reality is that migrant workers are often treated as “second-class citizens” which is most evident when taking into account recent events where migrant workers in agriculture and food processing have not been afforded the same health and safety protections during the COVID-19 pandemic.

4. Why is addressing that problem important for achieving the goal of your working group?

Central to promoting the equitable livelihoods in food systems is protecting the dignity and rights of migrant/foreign food workers, who currently form an essential labour force in the sector.

5. How can this solution address that problem (theory of change)?

The lens of anti-discrimination will help global policymakers better understand how and why migrant/foreign food workers face deprivation of human dignity. Anti-discrimination scholars have conceptualized the precarity of migrant agricultural laborers as new world enslavement. In other words, justice is the most inaccessible for those who are at the greatest risk of harm from discrimination. The ways in which migrant/ foreign food workers are vulnerable to the loss of their status and livelihood severely impedes their capacity to exercise their rights.

6. Why does this solution align to the definition and criteria for a ‘game changing solution’ developed by the Summit?

It is critical that the Food Systems Summit has acknowledged the central role that food workers play in promoting sustainable food systems. Shedding light on the unique discrimination and access to justice barriers faced by foreign/migrant food workers could help mobilize policy reform and action by governments to tackle these barriers by ensuring greater legal protection. Discrimination is at the heart of reforming labour conditions and protecting the human rights of laborers. Private and public stakeholders must collaborate on how to reform the industry in a way that will centre the equitable livelihood and dignity of migrant/foreign food workers.

7. Existing evidence supporting the argument that this solution will work, or at least achieve the initial outcomes?

There have been several initiatives across the world. Studies show how improving organization in the agri-food sector and capacity building of migrant workers’ organizations and cooperatives has resulted in significant positive outcomes. Countries which have options of regularization of status and less restrictive work permits also have fewer human and labour rights violations than states with most restrictive immigration systems.

**8. What is the current and/or likely political support for this idea?**

The initialization of anti-discriminatory practices and greater labour protections for migrant/ foreign food workers is directly in line with Sustainable Development Goal 8, which aims to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. More specifically, this solution advances Goal 8.8 on the protection of labour rights and promotion of safe and secure working environments for all workers. Some of these initiatives lack a grounding in anti-discrimination, addressing the vulnerabilities brought about by their “foreignness”, which is the key value added by this solution.

9. Are there certain contexts for which this solution is particularly well suited, or, not well-suited.

This solution is well-suited for all countries and in particular those with large rural economies and agri-food sectors. There is especially a need for anti-discrimination policy in global food systems as a result of the corporatization of agriculture, which will also benefit women and other communities. In order to advance the human rights and dignity of all persons, decolonial and anti-discriminatory approaches to food systems labour reform is needed and should be respected everywhere.