**Addressing Migrant Precarity in Asia: ‘Networks of Labour’ for a Rights-based Governance of Migration**

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**Abstract**

This paper uses migrant precarity as a lens through which to analyse the issue of mobilisation for migrants’ rights by civil society (including unions). Such mobilisation efforts are vital in light of the emergence of global migration governance which tends to actively constrain considerations for migrants’ human and labour rights.

Asia’s temporary migrants have been identified as a particularly precarious group of workers due to their insecure legal and residential status, as well as their specific position within the international division of labour which comes with the performing of un- or under-regulated types of work. The key issues with regard to migrants’ labour rights, implicating countries of origin and destination, relate to the recruitment process, substitution of contracts, and non-payment or underpayment of wages along the global (re-)production chains. Moreover, with local employment in countries of origin often characterized by informal employment, poor working conditions and unsustainable livelihoods, migrant workers are caught within a ‘protracted precarity’ that spans life at home and abroad and is often overlooked within the existing literature.

In addressing migrant precarity, the emerging global migrant rights movement has thus far been successful in articulating coherent claims that lie at the intersection of human and labour rights. This is also manifested in their strategy of forging complex ‘networks of labour’ that assist in navigating the fragmented architecture of migration governance at the global level. In doing so, better integration of the intersecting global governance regimes of labour and migrant rights is sought, whilst also pinpointing to continuing deficits. Greater attention needs to be paid to the issue of achieving decent work within countries of destination, but also in countries of origin, as a means of addressing conditions of protracted precarity that continue to structure the need for Asia’s working poor to migrate.

Key words: global migration governance, migrant precarity, temporary migration, human rights, labour rights, networks of labour, decent work

**Introduction**

Migrant workers are subjected to multiple forms of precarity which distinguishes their experience of precarity somewhat from that of non-migrant (“local”) workers in countries of destination. This is so because migrant status has been identified as an important additional marker for precarity in certain sectors of the labour market and in sub-standard, unregulated forms of work where migrants disproportionately end up finding work (Goldring et al. 2009). In highlighting the socio-legal and economic implications of migrant status and the positionality of foreign workers in certain sectors or types of work, the concept of precarity brings the issue of inequality and injustice to the fore; and importantly, it can do so (as demonstrated in this paper) in relation to global and transnational dynamics as well as against the backdrop of a regulatory framework that constrains certain migrants’ socio-political mobility.

Globally, migratory flows occur in two major directions, that is inter- and intra-regionally in the form of North-North, South-South and South-North movements. Currently, South-South migration is increasingly significant, especially in Asia, which has experienced an increase of 41 percent in the number of migrants remaining within the region (UN Special Rapporteur 2015, p. 4). Two particular types of labour migration dominate in Asia: legal migration regulated on a strictly temporary and typically employer-tied basis; and irregular, unauthorized migration. The former type (strictly temporary contract migration) was originally considered a stop-gap measure to alleviate immediate problems of over- and undersupply of workers and the relentless search for cheap labour the capitalist system is driven by. These dynamics are underpinned by the broad ‘push’ and ‘pull’ dynamics between richer and poorer countries shaped by demographic and socio-economic factors – that is, an ageing and, on average, well-educated population in destination countries that shuns certain types of jobs; and a younger demographic profile under conditions of un- or underemployment in major source countries of migration. The temporary migration of workers has meanwhile morphed into a structural, and thus long-term, feature of many Asian economies, partly in response to deepening neoliberal economic globalisation and concomitant macro-economic development policies. The ‘permanence’ of temporary migration has, however, not been addressed sufficiently in terms of migrants’ residential and labour rights.

The experience of the average migrant worker – who hails from the Global South, labours at the bottom ranks of the global economy and is as likely to be female as male – is at the centre of current articulations of migrant rights claims and strategies for rights promotion. Labouring in low-wage sectors comes with exponential exposure to a gamut of labour rights violations, ranging from extreme situations of forced labour and trafficking, to child labour as well as other, widespread forms of precarious employment that are typically related to the absence of regulation (Randolph 2015; Piper and Segrave 2015). However, social and economic life in countries of origin is overwhelmingly characterized by informal employment that can be similarly precarious, creating a ‘protracted precarity’ wherein migrants move between two modalities of precarity, one at home and one abroad. This continuum of precarity poses a unique challenge, in that it must be addressed at both ends. In this regard, the concept of ‘decent work’ holds promise as a rights-based approach that has gained traction at an international level while being sufficiently universal to address the issues of migrant labour and informality both. It therefore carries the potential to unite the efforts of migrant organisations and labour unions in addressing both modalities of protracted precarity – that is, rights *at* work abroad and the right *to* work at home.

This paper uses decent work as a lens through which to analyze the issue of mobilisation for migrants’ rights by civil society (including unions), both within destination and origin countries, which aims to address protracted precarity. Such mobilisation efforts are vital in light of the emergence of global migration governance, which tends to avoid concrete commitments to the upholding and realisation of migrants’ human and labour rights, then replicated in the way in which migration policy is formulated at the national and transnational level, often as part of technical bilateral agreements, void of any reference to rights. The tendency to leave migrants’ rights unaddressed by global and national institutions is the result of institutional failures at all levels, lack of political will to respond to the human costs involved in temporary contract migration (Chi 2008), and the downward spiral with regard to labour standards globally (Munck 2002).

By drawing on the example of the emerging global migrant rights movement, the argument advanced is that at this historical moment in time where the concept of ‘migrants rights’ is still treated as a “counter-hegemonic discourse” despite the greater traction that the discourse of human rights has found (see Basok 2009), the act of articulating and claiming rights occurs in the form of proxy citizenship through membership in civil society organisations. Citizenship via organisational membership occurs discursively and normatively at the intersection of the human rights and labour rights frame, and in terms of action in the form of networks of labour (NOLA) which result from increasing collaboration between the two key protagonists – labour unions and migrant rights organisations. Such networks of labour in support of migrants’ human and labour rights have emerged in response to the fragmented institutional structure of migration governance in the attempt to achieve greater coherence on a rights-base. Mutual advocacy of ‘decent work’ at global and local levels demonstrates the possibility of achieving such coherence, as well as the potential to forge new institutional linkages to restructure migration governance around a rights-based approach. More broadly, the emergence of NOLA for migrant rights raises the issue of organizational evolution which matters to the articulation of rights, before realization (via implementation, enforcement and monitoring) can even be considered. Importantly, this involves changes in organizational membership and perceptions of solidarity as the result of a transnationalizing world of work. It is for this reason that we have come to view rights as an issue and concept beyond the legalistic sphere, by treating rights as socially driven through political activism and based on the migrant experience as disposable labour.

The empirical findings on global migration governance viewed ‘from below’ (civil society) in this paper derive from the first named author’s many years of engagement with, and study of, the regional migrant rights movement in Asia and the role of international organisations in shaping global migration governance, in the form of regular participation as observer in various global fora and processes[[2]](#footnote-2) (such as the ILO conferences devoted to migration-related topics and the United Nations), often followed up by interviews with senior experts in relevant international organisations, trade unions and civil society organisations conducted between 2003 and 2016.

We begin this article with a discussion of the need for a rights-based approach to migration governance in light of protracted migrant precarity across the diverse contexts of Asia. This is followed by a section on the global entrenchment of temporary contract migration, the institutional gaps in its governance and a brief discussion of its implications for the conceptualisation of migrants’ rights and political agency. The paper then moves on to discuss NOLA and the global migrant rights movement as a response to this situation, highlighting the limitations of national and regional rights advocacy in light of apparent resonance with a nascent global governance agenda promoting decent work for all.

# Migration Precarity in Asia

Labour migration into the lower tiers of capitalist production and reproduction [[3]](#footnote-3) has increasingly been understood through the conceptual lens of precarity, particularly from the perspective of the migrant-receiving countries of the Global North.[[4]](#footnote-4) In this context, precarity refers explicitly to a “moment” in late capitalism where the exploitation of migrant labour has become systemic, entailing generalizable conditions of uncertainty, disempowerment, vulnerability and insufficiency (Rodgers and Rodgers 1989), compounded by deportability (Ferguson and McNally 2015) maintained to further segment and informalize labour markets. More specifically, it is associated with neoliberal economic reconfigurations, wherein accumulation by dispossession (Harvey 2010) has “swept away labour rights and social rights won by people's movements during the nineteenth and twentieth centuries and guaranteed by states through social institutions and frameworks of citizenship” (Schierup et al. 2015: 2).

Yet, in the diverse contexts of Asia, this “new global norm of contingent employment, social risk and fragmented life situations—without security, protection or predictability” (Schierup et al. 2015:2)—hardly constitutes a new state of affairs. Northern notions of precarity may not usefully extend to the limited formation of social and labour rights throughout Asia, where a different history of capitalist development has largely prevented the development of a Polanyian “protective counter-movement” in the first place (Breman 2009).[[5]](#footnote-5) While accumulation by dispossession now erodes the hard-won concessions of the labour movement in the Global North, it is important to recognize that, for much of Asia and the Global South more broadly, colonial and postcolonial ideologies have historically overshadowed the exercise of individual and working rights. Such rights, already nascent throughout much of Asia, continue to be sidelined under the doctrine of neoliberalism. Just as Northern notions of formal employment have been misleadingly transposed on the settings of Asia, where informality is more often the norm and formality the exception, so too is precarity largely representative of existing economic realities rather than a new “moment” in capitalist relations (Sproll and Wehr 2014). Indeed, the language of precarity has until recently been conspicuously absent from much of the literature emanating from countries of the Global South, perhaps explained by such conditions being the norm amidst the region’s uneven development.

These recognitions do not dismiss the importance of precarity as a concept, but rather point to the necessity of broadening its theoretical purview to better account for the majority of global movements of labour that take place within and between countries of the Global South (Hujo and Piper 2010; Breman 2009) and particularly throughout Asia. In this regard, migration cannot be seen as a linear pathway *into* precarity or a process by which migrants *become* precarious. Rather, foreign employment demands to be understood as precarious work undertaken to mitigate *existing* conditions of precarity at home, generally structured by historical and ongoing processes of uneven development. Whether migration takes place internally from rural to urban milieus, inter-regionally between countries of comparable development, or internationally from the Global South to the Global North, the precarity of economic marginalisation is itself a principle driver of migration.

Furthermore, there is limited evidence that the metamorphosis into transnational waged worker comprehensively provides salvation from this vulnerable space. The predominance of temporary contract migration leads inevitably to return migration. The promise of the “development effect” does not usually materialize after just one stint abroad. Re-migration often occurs, and the suggested positive outcomes of “circular migration” is more reflective of many migrants being captive to, or falling back into, the situation of precarity which they were hoping to escape. What emerges as a result is a transnational experience of precarity that is spatio-temporally reconfigured through migration, but nonetheless remains a constant experience for migrants as workers, both at home and abroad. This leads us to argue that what we are dealing with here is a specific form of ‘protracted’ precarity.

## Protracted Precarity

A complex contradiction is found in the exclusionary nature of economic growth throughout much of Asia. Rampant development has occurred alongside, and contingent upon, the entrenchment of exploitative and precarious work. With the select exception of some East Asian and South-East Asian economies— which have developed more inclusively under protectionism and state-driven selective industrial policy—[[6]](#footnote-6) Asia’s recent economic development has largely occurred under the polarising conditions of neoliberalism. By enshrining the “unfettered” functioning of markets, including those of human labour, there has been little policy imperative to introduce social protection measures and workplace regulations equating to decent work. Instead, the fictitious commodification of low-wage labour has been fundamental to strategies of growth and development that hinge upon economic integration among the lower tiers of global supply, labour and care chains. Precarious labour has been used as a “selling point” for export economies competing to attract foreign direct investment, but also underpins more contemporaneous development pathways predicated on “exporting” cheap labour and care in exchange for remittances. Prevailing conditions of economic precarity experienced by marginalized segments of local labour markets—typically discriminated by class, gender or ethnicity (Ferguson and McNally 2015)—thus ensure the “competitiveness” of production and labour exports. Development under such circumstances is, therefore, predicated on the cultivation of a precarious workforce whose inability to access decent work locally prompts internal or international, and often overlapping (Skeldon 2006), migration into exploitative employment that nonetheless confers potential for a more predictable income. These same processes frame the recruitment of women as migrant domestic and care workers, particularly where traditional male livelihoods have been undermined and female breadwinners are increasingly the norm (Rosewarne 2014).

Poor enforcement of working conditions in destination countries are coupled with the lax regulation of migrant rights at home. Major sending countries such as Indonesia, Vietnam, the Philippines, Sri Lanka, Bangladesh and Nepal have engaged at various times in under-selling their nationals to major receiving countries in order to ensure their share of an increasingly crowded labour market for migrants. Efforts to set minimum employment standards and rights can be too easily frustrated by the measures that governments have adopted from time to time in order to enhance the international “competitive advantage” of prospective migrant workers. This has occurred, for instance, in the pre-departure training provided in Indonesia for domestic workers who are explicitly instructed to refrain from lodging complaints against employers that could lead to the premature cancellation of contracts (Piper and Rother 2012). And when governments of labour-sending countries do adopt measures to set minimum rates of remuneration and employment standards that must be agreed and stipulated in a written employment contract before a travel visa will be issued, such measures can be easily thwarted. The Philippines and Indonesian governments, for example, have mandated this requirement for domestic workers. In practice, destination countries simply expand recruitment from other source countries, or migrants desperate for paid work take to well-travelled irregular channels, engaging as undocumented workers. This applies to a large number of Filipina and Indonesian workers. Such competition among migrant source countries further contributes to the “race to the bottom” (Rosewarne 2012).

A conceptual bridge can be made between the key modalities of precarity (i.e. at home and abroad) by understanding broad forms of existing precarity to be ‘push’ factors for employment within narrower forms of precarity found in foreign employment. Un- and underemployment, insufficient social protection, poor working conditions and labour standards, seasonal employment, declining local livelihoods (increasingly also in relation to climate change) and chronic indebtedness all contribute to the need to pursue temporary labour migration as an alternative livelihood. This framework resonates with a resurgent strand of the migration-development literature that inverts the causal assumption that migration leads to development, instead highlighting underdevelopment as a structural cause of temporary labour migration (Delgado Wise 2009; Phillips 2009; Abreu 2012). Integral to this perspective is an emphasis on uneven development within sending countries, specifically the declining developmental accountability of the state under neoliberalism and the interrelated “outsourcing” of development to private individuals through livelihood strategies such as temporary labour migration (Migrant Forum in Asia 2013). Temporary labour migration, in particular, has served as an appealing “safety valve” for governments of developing countries faced with high unemployment and poor terms of trade: sending workers abroad masks job shortages at home (often associated with the decline of traditional livelihoods), while amassing vital foreign exchange receipts by way of remittances. In essence, a contradiction emerges whereby existing precarization engenders increasing labour migration, the macroeconomic dividends of which in turn sustains the continuation of an exclusionary model of development with little incentive to strengthen the rights of workers at home or abroad.

To better account for a holistic definition of migrant precarity, then—one that can be applied to a transnational context—it is necessary to develop a rights-based understanding of precarity within countries of origin alongside the existing legal-normative framing of precarity regarding the performance of migrant labour within destination countries (on the latter, see Goldring and Landolt 2013; on the former, see Randolph 2015). The fundamental problem is not only the insecurity and vulnerability associated with migrant labour, but the lack of opportunities, rights, security and protection at home that causes large segments of the labour force to resort to migration as a survival strategy or for aspirations for social upward mobility. This presents a particular challenge for the effective advocacy of migrant rights within a fragmented and stratified institutional context where advances must be made simultaneously across spatial and jurisdictional gaps.

International advocacy for migrant workers’ rights and the relative ineffectiveness of emergent regulatory initiatives, such as the 1990 UN Convention, have highlighted the persistent challenges of redressing entrenched structural inequalities within global labour markets preserved by the mutual complicity of labour-sending and labour-receiving governments (Piper 2016). Continued advocacy for migrant rights and working conditions by national and transnational civil society groups is essential in sustaining this struggle, and importantly at least as far as the emerging Global Migrant Rights Movement is concerned, it does not focus only on the situation in countries of employment. Importantly, it also addresses the need for sufficient social protection, labour rights and working conditions within sending economies, so that existing conditions of precarity can be ameliorated to the end of providing decent local work as a viable alternative to participation in temporary, employer-tied labour migration (Piper 2015).Temporary Migration, Decent Work and Social Protection – Institutional Gaps

The literatures on global governance and global social regulation have both commented upon fragmented institutional structures and the involvement of a plethora of institutional actors with reference to a number of policy fields (Kaasch and Martens 2015; Grugel and Piper 2007). This can lead to a number of competing and overlapping institutions, all of which have some stake in shaping policy (Deacon 2007). Migration as a policy field is affected by similar dynamics and characteristics. The complex landscape of global migration governance is comprised of normative institutions like the International Labour Organization (ILO) and intergovernmental agencies like the International Organization for Migration (IOM). Both are strong supporters of the ‘migration-development nexus’ and see state solutions within this context. The key difference, however, is that the ILO also has a standard setting mandate and a tripartite system involving employer and worker organisations alongside (the admittedly politically stronger) governments.

Whereas institutions of global governance primarily direct the formulation of global policy, its implementation takes place at the national level. We still know too little about countries’ institutional capacity and the political process of setting priorities to implement global policy effectively. In relation to poorer countries, it is the development literature that has long concerned itself with “good governance”, or rather how to address the lack thereof in these countries. Missing is the establishing of a concrete link between global regulation and national institutional capacity to implement good governance, especially in the field of migration. In relation to migration policy, existing studies have investigated the operational actions of international organisations in national contexts,[[7]](#footnote-7) but to a lesser extent has the issue of institutional capacity on the national level been related to the realisation of global goals.

It is, however, primarily at the national level where there are serious capacity constraints with regard to achieving the “managed migration” paradigm’s key goal of “benefitting all”. This is particularly so with regard to many sending countries where this paradigm promotes economic development via remittances and migrant investment in businesses, while also requiring the protection of the rights of migrant workers (Chi 2008). Sending countries have limited institutional capacity to manage temporary migration accordingly, due to a “lack of resources, expertise and institutional commitment to protect their citizen migrant workers and to harness economic benefits for long-term development” (Chi 2008: 511). But significantly in their case, as Chi (2008) concludes, the issue is not so much one of regulatory design but of dominant interests and priorities. There are particular tensions between the competing objectives of ensuring continued labour migration and remittances, protecting the rights of migrant workers and promoting local work as an alternative.

In turn, the key international player to provide technical assistance on all these matters is the ILO since it has stronger legitimacy based on its standard-setting mandate and the principle of social dialogue, as well as its tripartite structure. But the ILO has its own institutional capacity constraints with regard to in-country presence. Its national offices tend to be understaffed and underfunded, often lacking expertise on migration since migration is not part of its core interests and it struggles with incorporating informal workers and non-organized sectors into their traditional operations (Basok and Piper 2012)[[8]](#footnote-8). The ILO’s promotion of the concept of decent work, subsequently adopted by the UN as part of the Sustainable Development Goals (SDGs), can be seen as an effort to refocus on a universal rights-based approach as an alternative to a labour rights framework mired in a Eurocentric formal sector context. The ILO’s Guiding Principles and Operational Guidelines for Fair Recruitment (2016) are interesting in this respect because they go beyond the ‘decent work’ project to articulate explicitly the need to be front and centre about incorporating UN Human Rights provisions in the fair recruitment agenda. Furthermore, the ILO has teamed up with the World Bank, which is concerned about ‘leakages’ across the spectrum of the ‘unfair’ global labour supply chain because this takes the steam out of the ‘migration-development-nexus’[[9]](#footnote-9).

The ILO’s institutional capacity constraints stand in complete contrast to the IOM, which maintains national offices practically everywhere that are comparatively well-staffed (Basok and Piper 2012) but, unlike the ILO, does not mandate the express objective of advancing migrant worker rights.[[10]](#footnote-10)

*Implications for Political Agency*

The lower levels of international supply, labour and care chains are often located in developing countries with weak institutions, poor rule of law and a large informal sector. To address labour rights violations in global labour supply and care chains requires organizing from the bottom up and new methods of labour organizations to match new forms of global economic organization. Under said circumstances, direct organizing however proves difficult which partly explains the underdevelopment of formal unions (Kolben 2010). This space is filled by alternative forms of unions and non-unionist labour organizations (Gallin 2000; Leather 2004; Spooner 2004) which have begun to use advocacy methods that are more closely associated with the human rights movement, including dissemination of information through transnational networking to galvanizeaction by various stakeholders. Increasingly such networks include, or are instigated by, migrant rights organizations.

Migrants and low-wage workers are typically deprived of their political rights due to their precarious status in socio-legal and structural terms. Political marginalisation is compounded by social and geographic marginalisation that comes with the filling of jobs in specific sectors where migrants are typically overrepresented, such as domestic work performed in private households, in agriculture or plantation sector in rural areas, on construction sites, as fishers or seafarers. It is the combination of highly restrictive migration policies in temporal and spatial terms, as well as the material features of migrants set within the inequality of power relations between wealthier receiving and poorer sending countries of migrants that constitute vital aspects which need to be taken into account in assessing a ‘just’ global deal for migrants (Estevez 2010; Piper 2013).

Under the policy framework promoted by global governing institutions, migrant workers are not only given temporary work and residential permits but are in addition also tied to one particular employer for the entire length of their contract. This results in an unbalanced relationship of power or dependence: when experiencing abusive or irregular practices on the part of that one employer, such workers cannot switch to a different employer. They also typically refrain from seeking recourse for fear of losing the much needed, temporary job. This situation is compounded by the increasing privatization of migration which means that many migrants have to finance their own migration, and they typically do so by incurring debts. The expanding private recruitment industry assists migrants in realizing the physical relocation by offering loans and other services that typically involve the charging of excessive fees. By resulting in indebtedness and thus greater dependence on employers’ good will, this situation is akin to forced labour (Verite 2016).

In her recent book, Berg (2016) demonstrates how temporary and irregular forms of migration are not just happening but are historically arrived at and socially constructed, in order to serve the demands of labour markets that are shaped by neoliberal economic frameworks imposing a competitive nature on certain businesses which is primarily met through reducing labour costs. Receiving societies often engineer the fear of migrants to be detected, detained and deported, in order to ensure that they will neither complain, nor protest, nor mobilize. In this manner, they can become the exploited pliable workforce which in turn creates part of the wealth accumulated at the destination end.

Migrants’ multiple precariousness constitutes, thus, an engineered form of precariousness that lies at the intersection of industrial relations and migration law. A number of scholars have placed the disciplining effects of such regulatory framework or regime at the centre of their analysis (Bauder 2006; Geiger and Pécoud 2010), that is disciplining workers into compliance within a neoliberal capitalist system that channels them into performing the so-called three “D” jobs (dangerous, dirty, difficult) that no local worker can or wants to do.

In sum, current policy practices in relation to migration heavily circumscribe the human and labour rights of migrants[[11]](#footnote-11). Such rights are in fact well set out in existing international instruments[[12]](#footnote-12) (‘rights on paper’) but barely realised in practice. As low-skilled/low-wage temporary contract workers, the majority of migrants find themselves in highly vulnerable and exploitative situations. Migration governance, thus, continues to fail in several key areas as reflected in decent work deficits in relation to labour rights, employment opportunities and social protection.

The very conditions of exploitation have negative implications for migrants’ political agency. Trade unions are generally not interested in reaching out to itinerant migrant workers who are hard to organize in the conventional sense due to their frequent physical relocation. Paying membership fee from their already meagre incomes can be beyond their means. Also, there is the issue of political culture: trade unions are organisations that are often not met with trust by, or are unknown entities to, many migrants. Traditional unions similarly offer little protection of, or engagement with, those enduring conditions of uncertainty and insufficient rights within informal sector employment, that is, the same conditions that often catalyse the pursuit of temporary labour migration as an alternative livelihood. In contrast, the ILO’s concept of ‘decent work’ contains the promise of being sufficiently broad to encompass the concerns of migrants and informal sector workers alike. The best platform for change might therefore come from a combination of pressures articulated ‘from below’ (i.e. in the form of political activism by civil society, including network building between labour movements and migrant organisations) and coordinated ‘from above’ (i.e. through the global governance of ILO and UN initiatives) through a shared rights-based framework of decent work. The rise of a global migrant rights movement, supported by networks of labour, represents a crucial step in this direction and a blueprint for future advocacy of migrant rights.

**Networks of (Migrant and non-Migrant) Labour as a Response: the Rise of the Global Migrant Rights Movement**

The current framework of highly restrictive migration policies in the absence of effective labour regulation has become subject to increasing levels of politicisation on the part of an evolving Global Migrant Rights Movement. Aimed at counteracting the predominant narrative emanating from the global level by promoting a rights-based approach to migration and workplace relations, the rise of the global migrant rights movement mirrors the “dramatic rise in the number of groups claiming that they have certain rights and that those rights are being violated” (Kuper 2005:x). This rise in ‘rights-claiming’ can be attributed to intensified economic interaction, the establishment of networks and the development of multilateral institutions (ibid.). Such developments signify that understanding the articulation of and responsibility for rights as a matter confined to single states is no longer appropriate. As a result, the articulation of rights claims has become central to the way in which grassroots social movements have framed grievances in recent years (VeneKlasen et al. 2004).

The emergence of the global migrant rights movement is the product of the formation of ‘networks of labour’ derived from inter-movement building between unions and migrant organizations. This movement is composed of regional networks from around the world, comprised of grassroots, membership-based migrant organisations and increasingly also labour unions. The ultimate message by the emerging global migrant rights movement is to stop what is essentially being viewed as a matter of forced migration, a concept hitherto primarily applied to the case of refugees. The key ‘action’ is the challenging of the dominant discourse and policy prescriptions emanating from global fora and processes. This challenge involves addressing the lack of attention paid to ‘labour’ governance including decent work at home as an alternative to the need to migrate (i.e. protracted precarity), in addition to, or instead of, an almost exclusive focus on migration governance (i.e. the control of population movements). The strategy of forging complex ‘networks of labour’ is used to assist in navigating the fragmented architecture of migration governance at the global level. The gradual consolidation of cooperation between unions and migrant rights organizations thereby underpins the argument for the increasing blurring of the human rights and labour rights framework.

The global migrant rights movement interprets, frames and gives meaning to the notion of the rights of non-citizen workers. On a general and more abstract level, for migrant workers, the conceptualisation of their rights has to be located within the overlapping frames of citizenship, human and labour rights. The blurring of those rights derives from an approach to migrants’ rights that has to be necessarily global and transnational, and in doing so moves responsibility for a better redistribution of the gains of migration beyond the confines of singular states or the realm of bilateralism between specific pairs of sending and receiving countries. This in turn is related to the institutional environment involved in migration policy: the global, regional and national. This environment is fragmented, inconsistent in terms of capacity and level of involvement as well as in terms of offering opportunities for engagement to civil society actors, including unions. Finally, the highly restrictive policy environment based on the primacy of temporary migration promoted at the global level by many international organisations and practised by many Asian states for decades is characterised by the absence of pathways to citizenship or constitutes a pathway with increasing obstacles. This situation has serious implications for migrants’ ability to exercise their political rights.

In more concrete terms, the most pressing issues identified by migrant and labour rights activists (supported by research findings[[13]](#footnote-13)) relate to the exploitative recruitment process along global labour and care chains, the substitution of contracts, and the underpayment and non-payment of wages. Given high competition on the low-wage ‘migrant labour market’ in light of corrupt state institutions and an expanding private recruitment industry, migrants are subjected to inhumane labour conditions and violation of their labour rights throughout the migration cycle: from the pre-migration stage, continuing during overseas employment and upon return.

In cases where national channels of engagement with policy processes are non-existent (such as Malaysia and the Gulf states), the strategy employed by activists is to scale ‘up’ – that is to direct their activism to the global level of policy making and thus international organisations or global policy fora; and also to reach ‘out’ by forging transnational and cross-institutional alliances. In other words, the key strategy employed by advocacy organisations is to form or join networks and alliances that allow them to operate in a transnational space and engage with the politics of policy making at multiple levels of governance. Global union federations have proven vital allies in this regard.

Unions and migrant organizations make creative use of the (to date) institutionally fragmented global migration governance architecture. In doing so, they contribute to greater coherence between the two key migration governance regimes as far as the promotion of rights is concerned: the one provided by the International Labour Organization as a specialized agency on employment and work-related matters; and the United Nations including the Office for the High Commission for Human Rights on broader human rights issues. The two key non-state actors – unions and non-union organizations – used to operate in both spaces in a separate manner, without much presence of the other. Within the ILO process and procedures, workers’ interests were traditionally represented through trade unions. NGOs and other non-union organizations can usually only obtain observer status and participate on the sidelines, not as part of the mainstream process, such as the negotiation of new conventions. This sacrosanct set-up was, however, broken at the ILO congresses in 2010 and 2011 during which the new ILO Convention No. 189 on Decent Work for Domestic Workers was negotiated. For the first time in the history of such standard setting procedure were representatives of domestic worker organizations included in various trade union delegations and non-union advocacy organizations given more opportunity for meaningful input.

By contrast, the UN/OHCHR has always been more of a platform for NGOs, with unions historically showing relatively little interest.

When it comes to migrant rights, however, we can observe increasing presence of both protagonists engaging in both processes and spaces. As far as unions are concerned, this has largely to do with the global jobs crisis and race to the bottom as regards labour standards, in light of an assault on, or stagnation of, unions’ ability to improve worker’s rights in legal and institutional terms. This situation, combined with a growing informal sector throughout the Global South, has left unions with decreasing power and thus a loss in significance as change agents. Also, as the result of deepening economic globalization, the ILO has had to reconsider its significance as a ‘change agent’ by shifting from its historical roots in European industrialization and labour relations, in order to gain more relevance in the Global South. Decent work initiatives reflect this changing position. As far as NGOs and non-union organizations are concerned, and especially among human rights oriented NGOs, there has been a greater appreciation of, and turn in attention to, the significance of social and economic rights in addition to political and civil rights. In addition, informal workers, women and migrants who were historically, and often still are, excluded from the mainstream union movement have also formed their own, separate organizations.

Mobilisation efforts are often based on a rights discourse which serves as a narrative basis for solidarity and the launch of a new (or revived/revised) vision of justice beyond the (current) law’s provisions (Stammers 2009). Rights discourse, thus, helps to stimulate organisational evolution, and the very act of claiming rights is often the result of such organisations. In other words, rights are “made” and not “a given” (Koskeniemi 2002). Emergent rights claims and new specifications of injustice can lead to the inauguration of new forms of meaning (Hertel 2009) - and importantly also to a new understanding of who legitimate claimants are and thus lead to greater inclusion. The latter is of importance to the present discussion which concerns the rights of non-citizens, including undocumented migrants. There is increasing evidence of advocates employing human rights standards in defence of migrant and non-citizen workers’ rights, appealing to their rights as human beings regardless of their citizenship or legal status (e.g. McNevin 2007).

To address this general conundrum of mismatch between legal citizenship and status as non-citizen (legal or irregular migrant), Jennifer Gordon’s transnational labour citizenship conception makes an interesting contribution which brings us back to the issue of membership in organizations being vital to the evolution of rights. In a situation of massive inequality between countries – where preventing people from moving in search of work means curtailing their chance to build a decent life for themselves, compounded by the dilemma that from the perspective of workers in the receiving country, more immigrants often means more competition and/or worse working conditions – one way out would be “transnational labour citizenship”. This concept would link permission to enter a country in search of work to membership in cross-border worker organizations, rather than to the current requirement of a job offer from an employer. It would harness the enforcement of baseline labour rights and allow migrants to carry benefits and services with them as they move. Its goal would be to facilitate the free movement of people while preventing the erosion of working conditions in the countries that receive them (Gordon 2007: 504-505). Labour organizations that cooperate across borders are therefore central to this concept and its translation into practice[[14]](#footnote-14). Her concept epitomizes what we call ‘citizenship by proxy’ in the form of membership in collective and activist organizations. In the area of migrant rights, such organizations are evolving into a global movement.

*Networks of Labour ‘At Work’*

There are two key examples of ‘networks of labour’ which were formed to specifically improve the rights of *migrant* workers and which have in fact made a difference.

The first concerns the process leading to the new ILO Convention No. 189 which was adopted in June 2011. It constitutes a political victory as an instrument which regulates a hitherto unregulated sector in the informal economy, whose workforce is primarily female and primarily located in, or drawn from, the Global South, of which a considerable percentage are migrants. In terms of a rights framework, it constitutes a mix of human rights and labour standards. Its success is related to the ‘networks of networks’ between migrant rights organizations and trade unions that had emerged during the lobbying and preparatory phase. As most of the more powerful, well-resourced unions in the Global North tend to lack experience with informal sector work in general and domestic work in specific, they depended on the expertise of domestic worker and migrant rights organizations, opening an important entry point for non-union worker representation. Specific individual activists who drew on their personal experience as domestic workers were recruited into the official negotiation process.

One such person is Melissa Begonia[[15]](#footnote-15) who left the Philippines over a decade ago, initially for domestic work in Singapore, to eventually move with her latest employer to London. When a number of problems came together, she turned to outside help and subsequently became instrumental in the establishment of *Justice for Domestic Workers* (J4DW) in 2009, an organization of migrant domestic workers employed in private households. J4DW has become an affiliate of UNITE the union. She was a member of the British trade union delegation at the ILO Congresses in 2011 and 2012 when ILO Convention No. 189 was negotiated. During this process she made a number of interventions and became a role model to other (the non-unionized) female migrant rights activists who were present as observers. Her rise from an abused domestic worker in foreign lands who had no idea about international standards and global processes to an activist speaking at plenary sessions at the ILC is a remarkable achievement – and in itself seen as empowering (by her and by other activists[[16]](#footnote-16)).

The network of unions and domestic worker organizations that was formed prior to the ILO conferences in 2010 and 2011 did not disintegrate after the success of the ILO C189. Instead, it evolved into the International Domestic Worker Federation (IDWF), a membership-based, democratic and global organization of domestic and household workers and the first global union federation led by women and made up almost entirely of women. It has, to date, 58 affiliates in 46 countries. Its 5 year strategic plan aims at building a strong federation via targeted training of more leaders and concerted organizing efforts.

The level of involvement of non-unionist activists, that is primarily migrant worker organizations, was unheard of prior to the negotiation of ILO C189[[17]](#footnote-17). It was even said that non-union involvement led to a revival of the entire ILO process and its heavily routinized and highly technical procedures. Senior ILO staff found this new approach stimulating (personal interviews conducted in 2011 and 2012). Whether opening up channels to non-union organizations such as those by and for migrant workers constitutes a break-through with regard to the sacrosanct tripartite structure of the ILO, by turning this into a consistent feature of the ILO, is yet to be seen. But it is a step into the ‘right’ direction as pointed out by critics who have argued for the ILO’s need for institutional renewal and inclusion of non-traditional types of workers who in fact make up the majority of workers worldwide (Standing 2008). In this way, the ILO would also continue to increase its relevance to the many informal workers in the Global South (Sen 2000). What can be advanced, however, is the claim that this constitutes a new element to the debate around the institutionalization or formation of new organizational forms of cross-movement alliances as a result of the intersection of governance regimes on labour and human rights.

Such cross-movement alliances are also appearing within other United Nations process (apart from the ILO). The Office for the High Commission of Human Rights, for instance, is a forum that unions rarely engage with. The Treaty Body of the 1990 UN Convention on the Rights of All Migrant Workers and their Families, the Migrant Worker Committee, concerns itself with monitoring reports submitted by countries that are State Party to this convention. This process invites civil society organisations to submit so-called ‘Shadow reports’, i.e. counter-reports to those submitted by their respective governments. Sessions with civil society organisations are also a regular feature of the Committee’s biannual ‘sitting’ sessions. Unions had in the past rarely contributed to this but the discussions around domestic work and the prospects for ILO C189 galvanised unions into action and explicit support of other civil society organisation’s advocacy efforts.

Another example of cross-institutional alliances relates to the first UN High Level Dialogue on Migration and Development, held in 2006, which triggered the formation of the Peoples’ Global Action on Migration, Development and Human Rights (hereafter PGA) which comprises regional and national migrant rights networks, supported by global and a few national trade unions[[18]](#footnote-18). At the 5th PGA in Mexico City in 2010, for instance, there were nearly 800 delegates representing migrant associations, trade unions, human rights and women’s groups, faith-based and anti-poverty organizations as well as academics. The PGA provides the space for groups from around the world to formulate their strategies for lobbying and pressuring governments and international bodies to approach migration – and development – from a human and labour rights perspective.

Born out of the PGA process is the Global Coalition of Migration (GCM), aimed at consolidating the promotion of migrants’ rights at the global governance level. It constitutes a formal alliance of global unions, regional and national networks of membership based migrant rights organizations from Europe, Asia, Africa, Latin and North America as well as two academic networks. It uses the network form of operating, to share information and resources and to develop common strategies. One such strategy is to reach out to other social movements, such as Via Campensina, the peasant movement, which is now part of the GCM. Via Campensina’s motivation for joining the migrant rights movement is partly based on the personal experience of displacement by many peasants and the subsequent migration of their wives or other female family members to work overseas as domestic workers (pulled by rising opportunities in the expanding global care economy). The ‘networks of labour’ form goes beyond unions alone and involves the wider labour movement. This is mirrored in the recent joining of the GCM by the Solidarity Center.

Migrant rights organizations, unions and their networks have responded to state-led Global Forum on Migration and Development (GFMD) or state-dominated (UNHDL) processes by creating their own processes and political spaces (PGA, GCM). These CSO-driven processes constitute ‘networks of labour’ in that they are comprised of regional migrant rights networks such as the Migrant Forum in Asia, the Pan-African Network, the European network Platform for International Cooperation on Undocumented Migrants (PICUM) and global unions as well as academic/research networks.

The key messages that have emanated from these ‘networks of labour’ and cross-sectoral alliances relate to a key right for migrants: the right to free movement; and to a key right for migrants as workers: the right to decent work anywhere, i.e. ‘ at home’ and ‘abroad’, which relates to addressing protracted migrant precarity. By resorting to the demand for decent work ‘here’ and ‘there’, the ILO’s broader policy framework is used. This framework has also fed into the broader UN work, such as the Sustainable Development Goals: goal no. 8 refers to ‘decent work’. By reaching out to all workers, migrant and non-migrants, the idea is to create a sense of solidarity, as for example evident from the slogan “social protection for all” promoted by the Public Services International. As concerns the institutional architecture, the global migrant rights movement favours the ILO as the key institution that should be at the centre of global migration governance, a demand which has been reiterated and reinforced at the GFMD meeting held in Dhaka Bangladesh in December 2016.

In sum, the unified message that has come out of the CSO-cum-union led initiatives in response to the ‘management of migration’ discourse promoted by global governing bodies is the demand for a combination of migration and labour governance - and, thus, a greater role for the ILO at the heart of global governance of migration.

**Claiming Migrants’ Labour Rights via NOLA: Concluding Remarks**

The discussion of mobilization efforts to promote and realize migrants’ rights has demonstrated that the separation of human rights and labour rights is artificial. They are increasingly blurred in conceptual as well as practical terms, as argued here, which is a reflection of migrant workers’ doubly vulnerable standing that is as low-wage workers and as non-citizens. Temporary labour migrants’ experiences are situated along a spectrum of modern slavery (as some would refer to it), enduring a range of traumas from common abusive and exploitative practices by recruitment agencies and employers resulting in underpayment or nonpayment of wages, right the way through to physical and sexual abuse or forced labour. Being undocumented or workers contracted on a temporary basis has serious implications for their ability to seek redress and justice.

The spatial dynamics of migration and migrants’ protracted precarity render conventional organizing methods ineffective. Moreover, migrants move within a transnational sphere of jurisdiction, which in turn requires transnational activism. It is through networks of labour and cross-institutional alliances between migrant organizations and labour unions – i.e. via ‘citizenship by proxy’ – that a rights-based perspective to migration governance has been put back on the agenda. The enduringly fragmented structure of global migration governance has assisted the formation of such alliances, but has also led to greater coherence of the two key governing regimes that lie at the intersection of labour and human rights. The ILO and UN’s advancement of a rights-based framework for decent work confers potential for a further strengthening of these cross-institutional alliances if coherence can be achieved by networks of labour and global governance initiatives. Importantly, decent work also speaks to insufficient labour rights within countries of origin, and therefore provides sufficient scope to redress the seldom-acknowledged protraction of migrant precarity, that is, the instability and vulnerability experienced before and after temporary labour migration.

The fledgling global migrant rights movement has been successful in conceptualizing causes (poverty, lack of decent work and employment opportunities) as well as consequences of migration (lack of decent work, continuing poverty) as rights issues. Through this frame shared responsibility on the part of sending and origin states as well as the international community is established. The next step is to push for greater realization of migrant’s rights on the ground by turning ‘rights on paper’ into ‘rights in practice’. The increased commitment and activism around migrant worker rights as played out in specific and localised contexts, as well as on the global (UN, multilateral fora) level, in the form of consolidating alliances between unions and CSOs is a promising development in this regard.

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2. This engagement started in 2003 with the set-up of the Global Commission for International Migration and my participation in various events, followed by the ILO conference devoted to labour migration in 2004, the UN High Level Dialogue on International Migration and Development process, my attendance of most Global Fora on Migration and Development (and the parallel civil society meetings) held annually since 2007, and my participant observation of the ILO conference in 2010 and 2011 at which the ILO Convention No. 189 on Decent Work for Domestic Workers was negotiated. [↑](#footnote-ref-2)
3. Contemporary forms of permanent migration in Asia are largely confined to international spouses. Marriage between typically (but not exclusively) women from resource poorer countries in Asia to men in resource richer countries has been a steady if not rising phenomenon and been conceptualized as part of parcel of the current “care crisis”. [↑](#footnote-ref-3)
4. Goldring and Landolt 2013; Lewis et al. 2014; Schierup et al. 2015. [↑](#footnote-ref-4)
5. On the other hand, those countries that used to have strong labour movements at some point, such as South Korea, have experienced backlashes and lost rights under extreme state oppression. [↑](#footnote-ref-5)
6. Examples are Japan and the “Tiger Economies”. See Chang (2006). [↑](#footnote-ref-6)
7. For the example of the IOM, see Geiger 2010; Georgi 2010; Basok and Piper 2012. [↑](#footnote-ref-7)
8. Although the ILO’s Decent Work program is exactly to counteract such limitations (Vosko 2012) [↑](#footnote-ref-8)
9. See in this regard for instance Abella (2016) on the hidden costs for migrant workers. [↑](#footnote-ref-9)
10. The IOM has 450 offices worldwide with over 9,500 staff in total. In contrast, the ILO maintains 40 field offices. [↑](#footnote-ref-10)
11. The main rights issues for migrant rights advocates revolve around the strict temporary character of migration (1 to 3 years), the lack of family unification, the involvement of private, profit-oriented recruitment agencies and the employer-tied nature of work permits which exposes migrants to great levels of dependency and abuse at the workplace. [↑](#footnote-ref-11)
12. For a full list see ILO, *The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*, Geneva, International Labour Office, 2006. [↑](#footnote-ref-12)
13. See e/g/ Farbenblum, B., Taylor-Nicholson, E. and Paoletti, S. (2013), *Migrant Workers’ Access to Justice at Home: Indonesia*, Open Society Foundations: New York. [↑](#footnote-ref-13)
14. Such practices have become common in Europe, most obviously in the building and construction industry. The Global Union Federations have sought to promote cross-border standards through Framework Agreements with transnational corporations. [↑](#footnote-ref-14)
15. This is her real name: she is a public figure who regularly appears in the public sphere (media etc.) and on her organization’s website. [↑](#footnote-ref-15)
16. As became clear in conversations the author had with Melissa and other activists during the ILC in Geneva. [↑](#footnote-ref-16)
17. ILO Conventions are always subject to a two year process: in the first year it is discussed whether there should be a convention at all and in the second year the actual text is negotiated. The discussion around ILO C189 started in 2010. [↑](#footnote-ref-17)
18. Those are: BWI, ICTU, PSI, the Canadian Trade Union Council, and AFL-CIO. [↑](#footnote-ref-18)