

DECENT WORK

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International
Labour
Organization

Protecting the Rights of Migrant Workers: The Role of Trade Unions with a Four Pillar Approach

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ILO Multilateral Framework on Labour Migration : Non-binding principles and guidelines for a rights-based approach to labour migration

Adopted at the 92nd ILC in 2004

Objectives

- Harnessing benefits from labour migration, while protecting rights of migrant workers through safe migration;
- Identify priority areas for development cooperation to assist member states

Plan of Action



- Wider application of international labour standards and other relevant instruments
- Implementation of the Global Employment Agenda
- Social Protection of Migrant Workers
- Capacity building, awareness raising and technical assistance
- Strengthening social dialogue
- Improving information and knowledge database

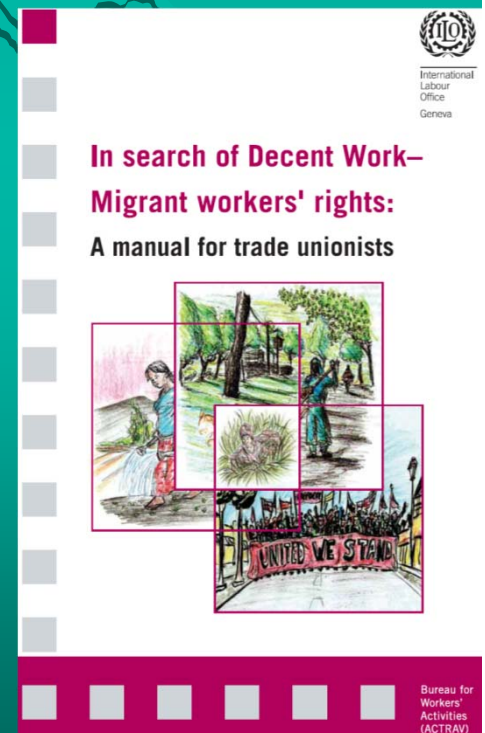
Four pillars' approach is based on "An ACTRAV manual for trade unionists: In Search of Decent Work-Migrant Workers' Rights (2008)

Pillar 1: Promoting a rights-based migration policy

Pillar 2: Creating a network between trade unions in sending and receiving countries (MOU)

Pillar 3: Reaching out to migrant workers

Pillar 4: Educating, training and advocacy





Pillar 1 – promoting a rights-based policy on migration

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- International labour migration is a unavoidable phenomenon
 - Migrant workers are workers whose human rights are protected regardless of their status – documented or undocumented
 - Trade union is an institution fighting for social justice and human rights and migrant workers are potential members of trade unions.
 - ILO promotes labour rights for the protection of migrant workers through compliance with domestic and international labour standards

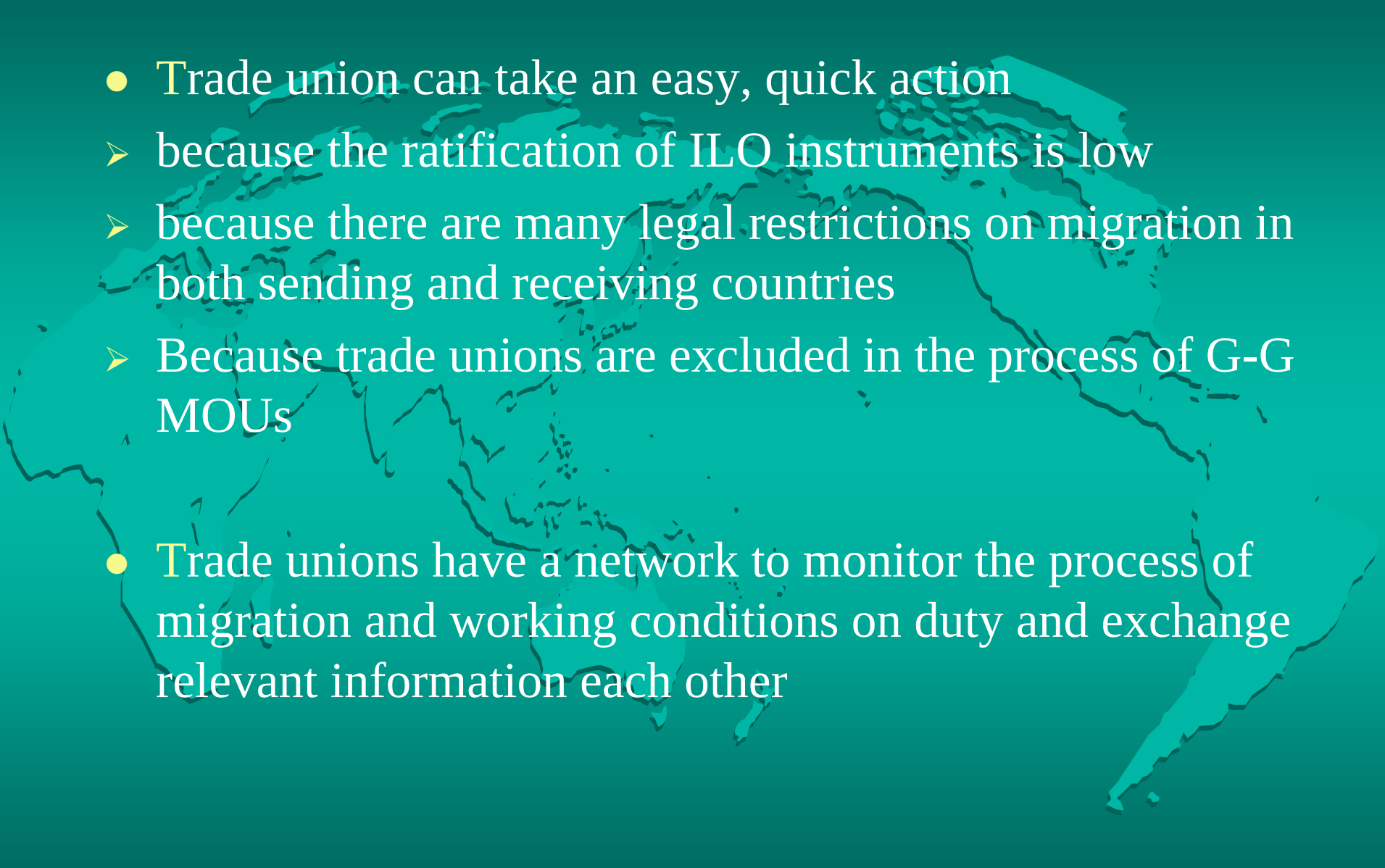


ALL ILO Standards ratified in the receiving countries
apply to migrant workers:
Especially 8 core conventions apply to them

- Freedom of Association (C87, C98)
- Non-discrimination (C100, C111)
- Eradication of Child Labour (C138, C182)
- Prohibition of forced labour (C29, C105)



Pillar 2 – Promoting MOUs between trade unions in sending and receiving countries

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- Trade union can take an easy, quick action
 - because the ratification of ILO instruments is low
 - because there are many legal restrictions on migration in both sending and receiving countries
 - Because trade unions are excluded in the process of G-G MOUs
 - Trade unions have a network to monitor the process of migration and working conditions on duty and exchange relevant information each other

The ACTRAV Model MOU on the Protection of Migrant Workers' Rights

- **Why:** The development of the model MOU aimed to assist trade unions to make an easy reference and adoption.
- **How:** drafted at an inter-continental meeting between trade unions in sending Asian countries and receiving Middle East countries held in Amman, Jordan in Dec. 2008

Case 1: a MOU between Thai unions and Cambodian unions, which details areas of their joint action

- Thai-Cambodian Union MOU signed in Nov.2013

MEMORANDUM OF UNDERSTANDING BETWEEN TRADE UNIONS IN CAMBODIA AND TRADE UNIONS IN THAILAND ON PROTECTION OF MIGRANT WORKERS' RIGHTS

PREAMBLE

The Trade Unions in Cambodia undersigned and the Trade Unions in Thailand undersigned, are hereinafter referred as "the parties".

The parties agreed to develop a Memorandum of Understanding (MOU) with a view to facilitating joint activities on protection of migrant workers' rights. The MOU promotes a rights-based policy when dealing with issues related to the protection, education and organizing of migrant workers.

The outline of this MOU is guided by the ACTRAV trade union manual, "In Search of Decent Workers – Migrant Workers' Rights", which aims at assisting trade union organisations to carry out activities based on the ILO instruments (C97 and C143) and various resolutions concerning labour migration, adopted by the international and regional trade union movement.

By signing this MOU, the parties are:

AFFIRMING the importance of migration for employment between Cambodia and Thailand and its positive contribution to the economies of both countries;

CONVINCING that the benefits of labour migration can be maximized through the effective governance system and respect for workers' human and labour rights, enshrined by ILO Fundamental Principles and Rights at Work adopted at International Labour Conference, 1998 as well as within the concepts of ILO decent work;

ASCERTAINING that the situation of migrant workers should be addressed through the principles of international trade union solidarity, social justice, equal treatment, equal opportunity, and gender equity;

REAFFIRMING that freedom of association and the right to collective bargaining are a central and non-negotiable principle.

Signing ceremony



IN WITNESS WHEREOF, both parties have signed this MOU in English with the technical assistance of the ILO Bangkok. The MOU will be translated into Thai and Khmer.

Prior to the revision or nullification of the MOU, both parties will discuss and agree on it. The MOU shall be effective upon signature

On November 11, 2013 in Rayong, Thailand

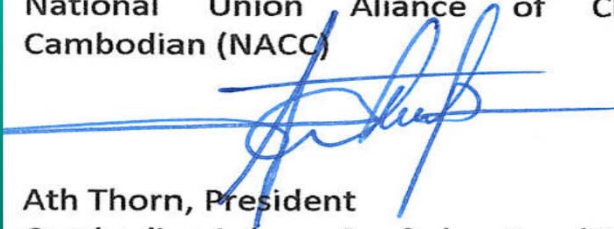
With representatives of the undersigned trade unions



Chuon Mom Thol, President
Cambodian Confederation of Trade Unions
(CCTU)



Som Aun, President,
National Union Alliance of Chamber of
Cambodian (NACC)



Ath Thorn, President
Cambodian Labour Confederation (CLC)



Thavee Techateeravat, President
Thai Trade Unions Council (TTUC)



Hussachai Payaban, Executive Committee
for Organising,
Labour Congress of Thailand (LCT)



Tawatchai Pholcharoen, Vice-President
National Congress of Private
Industrial Employees (NCPE)

Case 2: a MOU between VGCL and MTUC

1. A VGCL delegation constituted by four members visited Malaysia from 28 to 31 Oct. 2012 to understand the concerns of Vietnamese migrant workers.
2. At a VGCL workshop on migration held in Thang Hoa on 26-27 Feb. 2013, a MTUC leader was invited as a resource person to share the experience of MTUC on migration.
3. Another VGCL delegation composed of 4 members visited Malaysia from 13-16 Dec. 2014 to discuss a draft MOU for bilateral cooperation
4. The president of MTUC who led a six member delegation to Hanoi (13-17 March 2015) signed the MOU with the VGCL president.
5. A VGCL delegation is planning to visit KL in early Feb 2018 to review the MOU.

Signing ceremony on 16 March 2015



Case 3: MOU signed by **ATUC**, **SARTUC** Arab TUC

- Signed in Kochi, India in September 2015
- With a goal for
 - i. campaigning for the ratification and application of ILO migrant labor conventions;
 - ii. establishment of information centers or Migrant Resources Centers for networking, awareness, pre-departure orientation and post-arrival programs and direct services by unions;
 - iii. Organizing migrant workers in both destination and origin countries; etc.
- Its review meeting being planned in Asia, mid-2017



Pillar 3 – reaching out (organising) migrant workers

Case 1: FADWU in Hong Kong

- ACTRAV launched one year project with the partnership of HKCTU, aiming at federating domestic migrant workers in Hong Kong.
- The project succeeded in forming the “Federation of Asian Domestic Workers’ Unions (FADWU) on Nov. 21, 2010.
- The FADWU is constituted by six domestic workers, including:
 - ✓ Indonesian Migrant Workers Union
 - ✓ Hong Kong Domestic Workers General Union
 - ✓ Filipino Domestic Helpers General Union, Hong Kong
 - ✓ Union of Nepalese Domestic Workers in Hong Kong
 - ✓ Overseas Domestic Workers’ Union – HK
 - ✓ Thai Migrant Workers’ Union Hong Kong
- May Day 2013: <http://www.youtube.com/watch?v=FD1eCPTKFaI>

The Executive Committee elected



Future tasks of FADWU

- Need to improve communication and coordination among the six unions
- Increase paid membership
- How to respond to union members' high expectation for more direct benefits
- Respond to increasing individual grievances
- Campaign for the coverage of the minimum wage for domestic workers

Case 2: GEFONT in Nepal

- GEFONT is proactive in protecting the rights of migrant workers as well as organising the Nepali migrants.
- GEFONT has started to work on Nepali Migrant workers' issue since 1996.
- Set up a Migration Dept. and Migrant Committee constituted by four members in 2004.
- GEFONT-Migrant Committee has organized Nepali migrant workers and had its support groups in such countries as Korea, Malaysia, UAE, Saudi Arabia, Israel, Hong Kong and India

Case 3: Migrants' Trade Union (MTU) in Korea



In 2005, Migrants' Trade Union (MTU) was formed and 91 foreign workers in Seoul, Incheon and Gyeonggi Province filed a suit against MOEL denying its recognition.

In 2006, the administrative court ruled that the law here does not recognize them as workers entitled to legal protection.

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- That ruling was overturned by the Seoul High Court in Feb. 2007, which ruled that the undocumented migrants are recognised workers who have rights to form and join unions.
 - Then the Labour Ministry appealed it to the Supreme Court.
 - On 25 June 2015, the supreme court ruled that illegal foreign workers are entitled to form or join trade unions to defend their rights.
 - The MTU has a membership of approximately 1,500 as of 2015 who are from Bangladesh, Nepal, the Philippines, Sri Lanka, Indonesia and Vietnam.
 - Of total 700,000 migrant workers, as many as 105,000, accounting for 15 per cent, are undocumented.



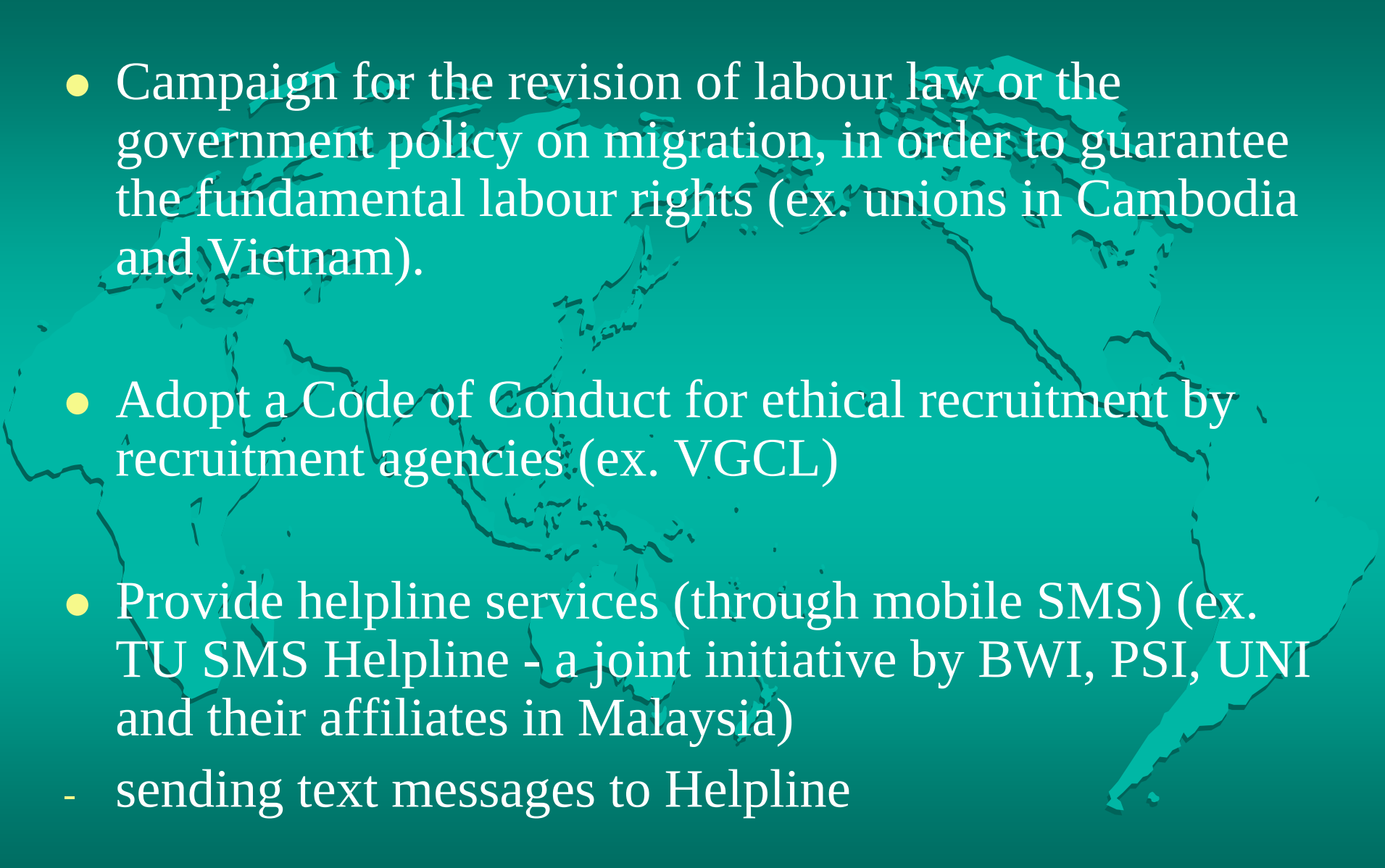
Pillar 4 – Education, training and advocacy for union members

A few examples on the role of trade unions in education/ training and advocacy

- Migrant Worker Resource Centres (MRCs) run by trade unions in Cambodia, Lao PDR, Thailand, Myanmar and Malaysia
- Information and counselling services
- Future tasks
 - visualization of the MRC to migrants
 - capacity building of the MRC staff;
 - Better collaboration of government authorities to resolve complaint cases



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- Mark “World Day for the Rights of Migrant Workers” on 18th December and raise public awareness on the positive role of migrant workers in both sending and receiving countries
 - Engage in pre-departure training and providing potential migrant workers on information on law and useful contacts in destination countries
 - Rehabilitation programme for return migrants (ex. LFTU)
 - Establish a helpdesk (or Migration Dept.) (ex. Trade unions in Nepal and Korea)

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- Campaign for the revision of labour law or the government policy on migration, in order to guarantee the fundamental labour rights (ex. unions in Cambodia and Vietnam).
 - Adopt a Code of Conduct for ethical recruitment by recruitment agencies (ex. VGCL)
 - Provide helpline services (through mobile SMS) (ex. TU SMS Helpline - a joint initiative by BWI, PSI, UNI and their affiliates in Malaysia)
 - sending text messages to Helpline

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- Organise social and cultural events (OSH, talent shows, etc) regularly with migrant workers to help them integrate in the society (ex. Trade unions in Nepal and Singapore)
 - Provide legal services (ex. Trade unions in Korea and the Philippines)
 - Develop a union policy and action plan and influence the government's policy and legislation on migration (ex. trade unions in Thailand, Cambodia and Myanmar)



THANK YOU