

JOINT CIVIL SOCIETY DECLARATION ON MIGRATION, DEVELOPMENT AND HUMAN RIGHTS

Submitted to GFMD-Manila, October 2008

As governments from all over the world meet in Manila to discuss migration and development policies, we call for human rights to be at the centre of debates. States have the obligation and responsibility to protect the rights of all human beings, including all migrant persons and migrant workers. We call upon governments to demonstrate their commitment to universal human rights, by affirming the human dignity of all migrants, including migrant workers, and ensuring that migrants' human rights are at the forefront of discussions.

The Second Global Forum on Migration and Development (GFMD) will take place from 27 – 30 October 2008 in Manila, Philippines. This follows the First GFMD held in Brussels, Belgium in 2007, and the UN High Level Dialogue on Migration and Development of 2006 (UNHLD).

We, the undersigned organizations, submit this Joint Declaration to guide discussions at the GFMD as well as other discussions on migration and development policy. We are organizations including migrants' associations, migrants' rights NGOs, human rights NGOs, development organizations, trade unions and workers' organizations, women's organizations, faith-based organizations, peasant organizations, urban and rural poor, fisherfolk, indigenous peoples, and social movements. We are from all over the world including Africa, Asia, the Caribbean, Latin America, the Middle East, Europe, North America and Oceania. We are committed to advocating for the respect of the rights of migrants and all human beings, and the fulfilment of corresponding state obligations, in the GFMD and beyond.

The realities of migration

There are over 250 million migrants in the world today. Throughout history, humans have been migrants or descended from migrants – with the exception of indigenous peoples residing in their ancestral lands.

There are many root causes of migration, including armed conflict, persecution, discrimination, poverty, underdevelopment, forced displacement, and environmental destruction. Migration also occurs due to marriage, a search for family unity, and a desire to seek a better life, educational opportunity, learning or personal growth. In the last decades, migration flows have intensified as a result of neo-liberal, corporate-centered globalization such as that promoted by the World Trade Organization (WTO), including free trade agreements, reduction in publicly-provided social services, market deregulation, and the expansion of the power of corporations. These policies have consistently widened the gap between rich and poor, creating wealth for economic elites and deepening vulnerabilities of individuals and communities.

While profiting tremendously from migrant labor, most countries in the world have adopted xenophobic, discriminatory policies that scapegoat migrants for social ills and alleged threats to national security. The adoption of policies that simultaneously "open" low-wage, poorly protected jobs but "close" possibilities for regularized migration or basic human rights protections have increased migrants' vulnerability to abuse and exploitation by employers, recruiters, organized crime, and corrupt officials. Women migrants, including migrant domestic workers and laborers, are particularly at risk.

States have tightened border controls and implemented harsh anti-immigrant policies in the name of state-centered national security, including in the context of the "war on terror". Some states have implemented regimes to detect and intercept "undesirable" migrants even before they reach borders. In this way, "developed" countries have sharpened territorial divisions, especially between the "North" and "South", and further secured their economic privilege. Concerning South-South migration, the human rights situation of migrants is of equal concern. Many governments, in countries which are simultaneously countries of departure and destination, maintain an ambiguous and schizophrenic discourse, calling for protection of their own nationals migrating abroad, while increasing control and repression of migrants in their own territory, as well as failing to provide sufficient protections for asylum seekers and refugees. All these have fed tensions and divisions between workers in different countries, amplified racial discrimination, and

heightened insecurity for all migrants, especially those with uncertain status, including exiled peoples, undocumented migrants, certain migrant children, refugees and asylum seekers.

Migration, Development and Human Rights

The GFMD's current "migration and development" paradigm does not sufficiently affirm the human dignity of migrants and migrant workers and fails to firmly place their inalienable rights at the center of development. Moreover, without concern for their rights at the center of debate, women will continue battling against discriminatory employment and migration policies, which maintain and reinforce gender inequality.

Many states, through the GFMD, are seeking to create an international migration regime that "manages" temporary workers for the benefit of global production and profit, while institutionalizing highly coercive and restrictive migration policies that penalize, as one undesirable group, all so-called 'irregular', 'undocumented', 'unskilled' migrants and other migrants with uncertain status. Such restrictive migration policies and the criminalization of migrants, combined with a failure to provide equal labor protections for migrant workers, perpetuate and increase vulnerability, abuse and exploitation of migrant workers.

The very limited opportunities for civil society organizations (including migrants' organizations, trade unions, women's organizations, and others) to contribute to debates and exchange with governments within the current structure of the GFMD presents a major obstacle to the development of migration and development policies that are respectful of human rights. Their participation is severely restricted, while enhancing the role of banks, financial intermediaries, private agencies and the corporate sector.

The GFMD must enable *all* governments to contribute to policy development with an equal voice. In order to contribute to creating an effective 'global' system based on migration and development policies that guarantee the human rights of migrants, the GFMD must allow for equitable participation of 'developed' and 'developing' countries both in the setting of the forum's agenda and the ensuing debates.

Our challenge to governments attending the GFMD

Governments have the obligation to guarantee the human rights, including labor rights, of all migrants as human beings. They must thus establish migration and development policies that respect, protect, fulfill and promote the human rights of migrants, including migrant workers, and promote sustainable, rights-based development. The GFMD must be used to further the implementation of states human rights obligations, and in particular:

Governments must fulfill their obligations under the core UNⁱ and ILO instruments, including the Universal Declaration of Human Rights, the UN Convention on the Protection of Rights for All Migrant Workers and Members of Their Families, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the UN Refugee Convention of 1951, ILO Conventions 97 and 143 and the Multilateral Framework on Labor Migration, and all regional and international human rights instruments.

Governments must "protect the vital core of human lives in ways that enhance human freedoms and human fulfillment" especially in dealing with conflict, poverty and migration (Commission on Human Security 2003).

Governments must not deviate from but rather build upon the normative rights-based framework-approach to development. All governments must honor their commitment to the Declaration on the Right to Development (UNGA Resolution 41/128, 4 December 1986) which affirms that "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."

Governments must guarantee the right to participation of migrants and all human beings in policy making. Discussions on migration and development policy at the national and international level must ensure the genuine and meaningful participation of migrants and other stakeholders. This requires stronger protections for and empowerment of migrant groups. The GFMD must ensure a larger, more genuine participation of civil society, reflecting a diversity of international actors, including the strong representation of migrants themselves, as well as measures to ensure language access as well as economic access and representation by all global regions.

Governments must recognize and respect the rights of all migrants, including migrant workers, whether or not they are in ‘regular’ or ‘irregular’ status. Regardless of their status, migrants are participants and contributors to and members of the community and country in which they live and work. They are endowed with human dignity and are holders of the full range of human rights, including the right to unionize. All migrant workers, including domestic workers, have the right to recognition as workers. Solutions do not lie in restrictive migration policies, but should instead include expanded avenues for legal migration and regularization, and the provision of opportunities in both countries of origin and destination.

Governments must ensure that migrants enjoy equality of rights and non-discrimination in the places where they live. Discrimination based on any status, including national origin, nationality, migration status, race, gender, class, sexual orientation, religious belief and language, is prohibited by international law and human rights principles. Governmental policy must also address de facto discrimination (unequal conditions), and promote empowerment and equity for migrants.

Governments must protect and uphold the human rights of women migrants, taking into account a long history of gender discrimination. Women’s rights to decent work, health, security and justice are crucial in the migration process, as is ensuring that women are not discriminated against when leaving or entering a country. International and national regimes must be adopted to recognize and protect the rights of domestic workers and other informal workers, many of whom are women. They must also promote the empowerment of migrant women and the achievement of gender equality.

Governments must adopt effective policies to combat trafficking. Policies aimed at curbing trafficking must be evaluated to make sure they are addressing root causes with a human rights approach, rather than furthering situations of exploitation and abuse. This includes examining the role of restrictive migration policies and poor labor protections in deepening exploitation and a cycle of poverty, which can feed human trafficking.

Governments must cease design and implementation of state migration policies that constitute or cause violations of human rights. These include policies that: deny migrant workers (especially migrant domestic workers and laborers) decent work and the protection of their basic rights as workers; criminalize migrants, including the criminalization of migrants with irregular status; militarize borders and externalize migration control in international waters or in countries of origin and transit; discriminate against migrants based on nationality, class, gender, or migratory status; enforce collective deportations which intensify violations of human rights, including the right to protection of the family, due process of law, right to security of person, and the principle of non refoulement; allow for arbitrary detentions and arrests, and all other deprivations of liberty of migrants in contravention of international standards on detention; and policies that fail to prevent and eliminate the exploitation and abuse of migrants, including trafficking of persons.

Governments must institute a functioning international system based on migration and development policies that guarantee the human rights of migrants, workers and all peoples, and which promotes sustainable, rights-based development. This requires that forums for multilateral discussions on migration and development policies ensure genuine migrant and civil society participation. It also requires that all developing country governments have equal participation and voice. Governments in the South should not adopt policies or enter into agreements, such as free-trade agreements, with Northern countries that increase forced migration of their populations. Neither should they make any multilateral or bilateral agreements, be they repatriation, border control, or temporary or circular labor agreements, that do not fully respect and protect the human rights of migrants.

The GFMD must respect the principles laid out in this declaration in order to be legitimate and effective. In its present form, the GFMD will not contribute to the development of policies to address the vulnerabilities of migrants and increase their protection for migrants, nor will it produce a coherent, effective international migration regime that can address the many complexities involved in migration. We call on governments to respond to these challenges and fulfill their obligations, and create new global mechanisms and processes that are genuinely democratic, transparent and accountable and which will meaningfully ensure each individual's human rights, freedoms and sustainable development. All governments, including countries of origin and destination, must address the root causes of massive migration, especially its feminization, through full employment and generation of local work with dignity, and through combating all forms of abuse of women and all individuals.

To sign this declaration:

- Please email Migrants Rights International at migrantsrightsinternational@gmail.com by **October 25, 2008**, with subject line "Sign declaration"
- Please send **(1) the name of your organization, (2) country, and (3) sector** (the area or description with which your organization identifies, such as migrants' association, migrants' rights, human rights, development, trade unions, workers' organizations, women's organizations, faith-based, peasant organizations, urban and rural poor, fisherfolk, indigenous peoples, social movements, or any other category)
- If your organization has official names in English, Spanish and/or French, please send all of them.

Thank you!

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- ⁱ The Core UN human rights conventions are:
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965
 - International Covenant on Civil and Political Rights (ICCPR), 1966
 - International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
 - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984
 - Convention on the Rights of the Child (CRC), 1989
 - International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW), 1990
 - International Convention for the Protection of All Persons from Enforced Disappearance, 2005
 - Convention on the Rights of Persons with Disabilities, 2006