

MIGRANT FORUM



in A S I A

**MIGRANT FORUM IN ASIA**  
and  
**SINGAPORE NATIONAL TRADE UNION  
CONGRESS**



**10<sup>th</sup> Regional Conference on Migration**  
**Current Perspectives and Strategies in Addressing “Irregular” Migration**  
**6-7 November 2006, Singapore**

**SINGAPORE DECLARATION**

We are 107 participants from 21 countries/territories representing migrants’ organizations, trade unions, women and other civil society organizations, academia and UN agencies to deliberate on current perspectives and strategies on “irregular” migration.

We thank the Singapore National Trades Union Congress for hosting and co-organising the 10<sup>th</sup> Regional Conference on Migration (RCM). We acknowledge the support of the Ministry of Manpower of Singapore.

At the Migrant Forum in Asia’s 10<sup>th</sup> RCM, we have come together as the largest Asian regional gathering of civil society groups and networks dealing with migration, human rights, gender, trade, and development in order to analyse and address irregular migration, and dialogue with key stakeholders, within a rights-based framework.

**WE AFFIRM THAT NO HUMAN BEING IS ILLEGAL.**

We reiterate the universality of human rights for all, including migrants, refugees, asylum-seekers and other people on the move. Migrants with irregular status have inherent, inalienable human rights regardless of immigration and nationality status.

We view irregular migration in a holistic and comprehensive manner encompassing economic, social, humanitarian, political and cultural dimensions.

There is no international consensus on what constitutes ‘irregular migration’. Definitions currently in use are varied and based on individual governments’ perspectives of controlling mobility, restricting rights, and criminalizing ‘irregular’ migrants and those providing them support.

The current framework on “irregular” migration places the interest of states at the centre, rather than the human rights of migrants; it puts an unacceptable premium on national security rather than human security.

The current model of neoliberal globalisation is based on new structures of international production chains and labour segmentation. These interlink a variety of firms including

transnational corporations, with a mass of casualised and informalised jobs, often performed by migrant workers.

The high demand for cheap, flexible and controllable labour in these economies/places where there also exist restrictive immigration, nationality and temporary work permit regimes, coupled with the loss of livelihoods and jobs, create the conditions for mass labour migration, and migrants ending up in vulnerable and irregular situations.

Neoliberal globalisation has also led to the privatisation of public services that have jeopardized the provision of care everywhere. The demand for domestic workers, care givers, etc., most of whom are women, has contributed to the feminisation of labour migration and is a manifestation of a global care-chain crisis.

Migration intersects with forms of discrimination based on gender, class, race, ethnicity, religion, nationality, sexual orientation and other forms that increase migrants' vulnerability.

Irregular status exacerbates marginalisation, discrimination, and oppression, resulting in the worst forms of abuse, violence and exploitation of migrants. Irregular status also results in direct denial and systematic violation of the rights of migrants.

Many policy measures pertaining to migrants in irregular situations are not rights-based. Those that are rights-based are inadequate, or are not enforced in part due to lack of political will. Current administrative and regulatory frameworks emphasize criminalisation, punitive actions, national security, and complement the anti-terror agenda of the State.

The recognition and understanding of the existence of migrants in various irregular situations, and the complex of reasons and causes that give rise to irregular situations, are essential in developing rights-based approaches.

Perspectives, strategies and actions addressing migrants in irregular situations must be based on human rights, with particular emphasis on labour rights, social justice, respect for diversity, and sustainable development frameworks. We reiterate that all perspectives and strategies must be gender-responsive.

Therefore, the 10<sup>th</sup> RCM recommends the following:

## **I. GOVERNMENT PRACTICES, PROCEDURES, MECHANISMS, POLICIES & LAWS**

### **1. With regard to the lack of safe, just, transparent and realistic mechanisms for regular migration, we recommend governments to:**

- a) Monitor multilateral, regional, bilateral agreements on services liberalization in order to make sure these do not impinge on migrants' rights; and

- b) Refer to and use the ILO Multilateral Framework on Labour Migration, particularly Guideline 5 and its corresponding guidelines/measures.
- 2. In view of the lack of comprehensive and balanced legal frameworks for the protection of migrants' rights, we urge governments to:**
- a) Create and implement systems to recognize the skills and qualifications of migrants;
  - b) Ensure that local and national laws are in consistent with international human and labor rights standards, and that these laws promote and enforce gender-sensitivity, non-discrimination and equal treatment among local and foreign workers, and workers in all job categories, including domestic workers;
  - c) Ratify international conventions and instruments relevant to migrants, particularly ILO Convention 143, 181, 97, the UN Convention for the Protection of Migrant Workers and Members of Their Families, Convention for the Elimination of Discrimination Against Women (CEDAW), and the five (5) other core human rights instruments; and the eight (8) fundamental conventions of the ILO
  - d) Use Guideline 9.8 of the ILO Multilateral Framework on Labour Migration, which gives particular attention to domestic workers, trainees, temporary migrant workers, and women migrant workers.
- 3. Concerning the poor enforcement and monitoring of existing laws and policies that protect migrants' rights, we recommend governments to:**
- a) Introduce effective and efficient complaint mechanisms for the redress of migrants' rights violations, including provisions for irregular migrants to access these mechanisms while keeping their identity and legal status confidential;
  - b) Monitor and improve the implementation of existing mechanisms to deter agencies that malpractice and/or circumvent the law, including imposing penalties and disclosing errant companies, and provide incentives to promote good practices among agencies;
  - c) Commit more resources towards the enforcement of migrants' rights protection regimes, including providing awareness-raising and capacity-building to government officials to develop their sensitivity on migrants' rights issues and understanding on how to more effectively implement corresponding laws and policies; and
  - d) Use Guidelines 10.1, 10.2, and 10.3 of the *ILO Multilateral Framework on Labour Migration*.
- 4. Regarding the prevalence of inconsistent and/or conflicting governmental policies on irregular migrants, we urge governments to:**
- a) Conduct the repatriation of migrants with due process, rather than relying by default on mass deportation measures;

- b) Examine existing policies and practices to identify inconsistencies between different governmental policies and their corresponding departments (e.g. homeland security/ internal affairs ministry, immigration, labor, health/social welfare, and other departments);
  - c) Create a transparent inter-agency steering committee on migration that facilitates the implementation of a coordinated national, rights-based migration strategy and protection regime; and
  - d) Create and publicize a transparent, rights-based national migration strategy and policy regime in consultation with relevant stakeholders, including civil society organizations, especially migrants' organizations and migrant-support groups.
- 5. Concerning the lack of recognition of the existence of different types of irregular migrants, of the underlying factors that give rise to forced migration (e.g. political repression, armed and ethnic conflict, forced mass relocation/displacement, religious persecution, and the lack of sustainable employment opportunities in sending countries) and the lack of mechanisms to protect their rights, particularly for the most vulnerable irregular migrants, we recommend that governments:**
- a) Introduce and enforce mechanisms to recognize, protect and assist the most vulnerable migrants, including asylum seekers, refugees and trafficked persons;
  - b) Create and implement specific measures within an overall migrants' protection regime to effectively meet the particular needs of asylum seekers, refugees, trafficked persons and other types of forced migrants, thereby recognizing the complexity of the situation and responding in a socially just and humane manner.
  - c) For ASEAN governments: continue dialogue with Burma and effectively resolve human rights abuses there;
  - d) Raise issues related to the human rights situation in Burma, that give rise to the forced migration of people from Burma, to international levels;
  - e) Undertake inter-governmental cooperation and agreements to deal with forced migrants; and
  - f) Ratify the 1951 Refugee Convention and the Trafficking and Smuggling Protocol.
- 6. Considering that certain sending countries (e.g. Burma) do not recognize the status of their own citizens and refuse to accept them back when they are deported from receiving countries, we strongly:**
- a) Regional bodies such as ASEAN to address the root causes of migration from Burma, namely the repressive regime that forces them to migrate; and
  - b) Receiving countries to provide temporary residency and work permits and visas, which allow migrants from Burma to access social services.

**7. In light of the criminalization of irregular migrant workers, the punitive approaches taken to address irregular migration, including the advertising of migrants as criminals, the use of civilian ‘special forces’ in rounding up irregular migrants, the provision of financial incentives for such groups, laws that criminalize migrants who run away from abusive employers, and the tendency to focus interventions on migrants themselves rather than on the principal actors and structural factors that contribute towards their exploitation, we stress that governments should:**

- a) Draw up bilateral agreements that build on international standards for the protection of the rights of all migrant workers and that there be strict monitoring and implementation of the same
- b) Streamline the recruitment and deployment process
- c) Not treat migrant workers as criminals or commodities, but as human beings
- d) Regional cooperation at the economic level be fundamentally aligned to human rights principles
- e) Draw up policies and mechanisms for social integration, inclusion and enforce non-discrimination policies
- f) Amnesty and regularization programmes to be adopted as good practice
- g) Governments should recognize that there may be refugees/asylum-seekers among irregular migrant population, and that these are people with special needs.

**8. Regarding practices of arrest, detention and deportation that are often not well regulated and that lead to human rights abuses (such as exploitation, extortion, violence against migrants, deaths, poor and abusive conditions of detention, arbitrary and indefinite detention), we strongly urge governments to:**

- a) Review procedure of arrest and detention
- b) Sending countries should monitor and provide support for reintegration of those arrested and / or deported
- c) At the international level sending countries should have their embassies providing services for all migrant workers, including legal support.

**9. In light of irregular migrants’ lack of, or poor, access to justice, whereby migrants often do not have due process and are summarily detained and/or deported, or even where there are redress channels, there is poor enforcement due to language difficulties, high expenses, lack of legal assistance, and other factors, we recommend governments to:**

- a) Strengthen specialized agencies to provide access to redress mechanisms and due process of law
- b) Offer free legal aid for all migrant workers.
- c) Ensure the efficient provision of interpreters during arrest, trials and other legal proceedings

- d) set up safe houses/ shelter for migrants during the period of legal proceedings

**10. Regarding the reality of insufficient service provision to irregular migrants, whereby migrants are explicitly denied services and placed at the mercy of civil society groups, we believe that governments must:**

- a) Provide assistance to on-site workers including quick response in emergency situations and for governments to advertise this service
- b) provide guidance for the movement of people, a comprehensive policy integrating sustainable development and reintegration
- c) provide safe channels for all migrants
- d) provide favorable investment environment for returning migrants

**11. Concerning the lack of accountability of sending governments to their migrants in taking responsibility for the abuses that stem from irregular migration, and their insufficient monitoring and regulation of recruiters and agents or their accreditation of recruiters without sufficient monitoring and regulation, leading to migrant workers abuse and exploitation, we urge governments to:**

- a) Develop a comprehensive law to regulate and monitor recruitment agencies, including a complaint mechanism that can be utilized by any person. The liable party must be a person and not a company for accountability and liability purposes. Information on those violating the law must be made public.
- b) Remove policies that give authority to employers and recruiters to control the mobility of migrants including exit from country and the withholding of travel documents;
- c) Facilitate the process of direct employment; and
- d) Create a timely complaint mechanism and legal redress system for workers on the issues of withholding documents and entitlements.

**12. Considering the labor export policies of sending governments, where export targets are set and trade negotiation frameworks are used by governments to maximize labor market access, due to the lack of viable employment options, as well as services in the sending countries for migrants, that leads to their over-staying in receiving countries, we urge governments to immediately:**

- a) End migration policies that are premised upon labor export and economic profit;
- b) Provide realistic and sustainable livelihood options to enable migrants to return home;
- c) Set up sustainable reintegration programs in sending countries; and
- d) Facilitate return programs in receiving countries in collaboration with host country resource provision

**13. In light of the tendency for receiving countries to keep migrant labor a temporary phenomenon, with no or limited options for permanent residency, we recommend:**

- a) That governments respect the rights of family reunification as stated in the 1990 UN Convention on the protection of the rights of all migrant workers and member of their families
- b) Respect the right of the children of migrant workers in line with Convention on the Rights of the Child

**14. In view of the general lack of recognition of the contribution of irregular migrants to social, economic and political aspects of sending and receiving countries, we urge governments to:**

- a) To commission independent research at the regional level (ASEAN, SAARC) with concrete recommendations and solutions.
- b) To commission participatory research involving all stakeholders (migrants and migrant families, governments and migrant employers) on the contributions of irregular migrants to the economic, social, political and cultural aspects of both countries of destination and origin.

**15. As the children and spouses of irregular migrants are not recognized by States, leading to the non-registration of marriages and the birth of migrant children, hence the statelessness of migrant children and non-acceptance by the country of origin of their parents, we urge governments to:**

- a) Map the gaps in policies addressing the issue as a way of leading to dialogue between sending and receiving countries;
- b) Provide registration mechanisms, especially birth certifications and marriage registration to the children and spouses of irregular migrants.

**16. Regarding the lack of information and research on irregular migrants, we recommend governments to:**

- a) Conduct dialogue between the respective responsible ministries / departments at the highest level of sending and receiving countries, including representation of civil society groups in such dialogues for a holistic and deeper understanding of irregular migration, with the objective of addressing causes and response to situations of irregular migration
- b) The outcome of these dialogues feed into the making of public policy that is socially just and based on a human rights protection framework.

## **II. PRIVATE SECTOR**

**17. As irregular migrants are not allowed to have bank accounts, and they face difficulties in sending remittances back home safely,**

- a) We recommend private institutions to provide migrants with favorable consideration so that they can access financial services (bank accounts, remittances, simplify access to loans, and other necessary services) easily.

**18. In light of the reality that employers hold the labor of irregular migrants in high demand, as employers need to only offer them cheap wages and poor or no labor and social protections; and that recruiters charge irregular migrants higher costs, hence reaping huge profits for agents, but resulting in debt bondage for the migrants, we urgently recommend:**

**Governments to:**

- a) Develop joint and solidary/several liability of employers and recruiters;
- b) Blacklist and track down errant recruiters;
- c) Devise and implement clear policies and mechanisms to regularize irregular migrants;
- d) Institute and implement policies such as a ‘welfare fund’ for migrant workers with clear provisions for irregular migrants in both sending and receiving countries;
- e) Amend and/or repeal discriminatory policies (for example, those that maintain temporary migration, such as the New Conditions of Stay—NCS--, and the six-year restriction on migrant workers’ work permit renewal in Taiwan); and
- f) Ratify the ILO C181.

**Civil society organizations to:**

- a) Start an Agency-Employer Watch or a Multi-Sectoral Monitoring Committee;
- b) Develop multilateral responses in monitoring implementation of practice among recruitment/placement agencies
- c) Enjoin trade unions to include irregular migration issues in their advocacy and organizing efforts
- d) Sensitize and mobilize the media regarding irregular migration issues; and
- e) Expose exploitative practices through the media (e.g. revoke/cancel licenses).

### **III. CIVIL SOCIETY**

**19. Considering that CSOs have limited resources, cannot provide for all the needs of migrant workers, and are focused in capital cities with lack of or limited NGOs working in border zones and transit areas we recommend the following:**

- a) Capacitate NGOs to fund raise and access resources

- b) Strengthen the capacity of NGOs working on providing services to migrants in remote areas
- c) Share information on donor agencies
- d) Strengthen and broaden advocacy networks including pooling of resources, improved sharing of information, cooperation on advocacy

**20. Considering that initiatives of civil society organizations and governments to address issues are not mapped we recommend the following:**

- a) To map out information on services provided by governments and NGOs
- b) NGOs and government agencies to work together in providing services for migrant workers

**21. Considering that best practices in advocacy and services are not shared we recommend the following:**

- a) Document best practices
- b) Hold forums and workshops to share best practices
- c) Improve networking among NGOs working on migration issues in particular in countries where there is no political space for migrant workers to act on their own behalf

**22. In light that migrant defenders/civil society groups are also criminalized and monitored we recommend the following:**

- a) To engage and strengthen cooperation with diverse stakeholders including National Human Rights Commissions and trade unions (national, regional and international)
- b) Report violations of migrants human rights utilizing existing channels/mechanisms at the national, regional and international levels (including UN Special Rap on MWs, UN treaty bodies, ILO committee of experts, others.)
- c) Develop more comprehensive reporting mechanisms.

**23. Considering that there is no political space to raise human rights issues, including migrant rights that there is restriction on civil society groups to raise awareness on issues we recommend the following:**

- a) Strengthen advocacy for the right of all workers to organize and unionise, including urging national trade union confederations to reach out to, and enlist migrants in their membership/provide services to migrants, including irregular migrants.
- b) Improve research and data collection on the needs, problems and issues of irregular migrants, and of their positive contributions to national economies and the well-being of host and home country societies.

**24. Considering that civil society groups are not consulted/represented in policy-making and that there is lack of access to policy-makers we recommend the following:**

- a) Strengthen engagements with policy makers, governments and various stakeholders including national human rights commissions
- b) Organize forums, dialogues and workshops involving policy makers and various stakeholders in the government

**25. Concerning the lack of Engagement with the ASEAN and regional/sub-regional bodies we recommend the following:**

- a) Engage with ASEAN process on the elaboration of an instrument for the protection of migrant workers in the ASEAN and engage with the SAARC process

**26. In light that Civil Society groups are not monitoring the implementation of international conventions (e.g. CEDAW, CRC, etc) we recommend the following:**

- a) Monitor and intervene in international migration related human rights processes (e.g. human rights treaty bodies, UN & ILO core conventions, UNHRC, ILO Multilateral Framework, UNHLD, and others)
- b) Strengthen and broaden campaigns to urge governments to ratify the key UN and ILO conventions related to migration

**27. In view of the fact that Civil society groups tend to adopt nation-state discourses uncritically**

- a) There is a need to re-examine our assumptions, concepts, discourses through the critical lens of the globalization discourse

**28. Considering that a big number of migrant workers don't know about their legal entitlements we recommend the following:**

- a) Conduct information education on the rights of migrant workers
- b) Use all forms of media (including alternative, community radio, local TV, others) as a tool for advocacy and for information education

**29. Considering that there is poor information flow to the public and lack of information on the plight of irregular migrants, distortion by the media we recommend the following:**

- a) Conduct broad-based awareness-raising campaigns on the positive economic, social and cultural contributions of irregular migrants to home and host countries.

- b) Use all forms of media (including alternative, community radio, local TV, others) as a tool for advocacy.
- c) Develop media advocates on migrants rights
- d) Invite/involve media in trainings of migrants human rights

## **LIST OF PARTICIPATING ORGANIZATIONS**

**Action Network for Migrant Workers (ACTFORM)**

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**Ain o Salish Kendra (ASK)**

**All Nepal Women's Association (ANWA)Asian Migrant Center (AMC)**

**Asia and Pacific Regional Organization of Union Network International (UNI-APRO)**

**Asia Research Institute, National University of Singapore Asian Forum on Human Rights and Development (FORUM-ASIA)**

**Association for Community Development (ACD)**

**Atikha Overseas Workers and Communities Initiative**

**Batis Center for Women**

**Centre for Asia Pacific Social Transformation Studies (CAPSTRANS)**

**Center for Human Rights and Development (CHRD)**

**Center for Indian Migrants Studies (CIMS)**

**Center for Indonesian Migrant Workers (CIMW)**

**Center for Migrants Advocacy – Philippines (CMA-Phils)**

**Coalition for Migrants Rights (CMR)**

**CWPD**

**Federation of Trade Unions – Burma (FTUB)**

**Filipino Domestic Helper General Union (FDHGU)**

**Galilea Migrant Center**

**Hope Workers' Center (HWC)**

**Humanitarian Organization for Migration Economics (HOME)**

**Immigration Advisory Service**

**Incheon Migrant Workers' Center**

**Indonesian Migrant Workers Union (IMWU)**

**Institute for Global Justice (IGJ)**

**International Development Research Centre (South East and East Asia Regional Office)**

**International Gender and Trade Network – Asia (IGTN-Asia)**

**International Labour Office (ILO)**

**International Movement Against All Forms of Discrimination and Racism (IMADR)**

**International Network of Alternative Financial Institutions (INAFI) Asia and Bangladesh**

**International Network of Alternative Financial Institutions – Philippines (INAFI-Phils)**

**International Organization for Migration (IOM)**

**Jarnas Pekabumi (The National Network of Economic Development Indonesian Migrant Workers and Member Families)**

**Joint Committee for Migrant Workers in Korea (JCMK)**

**Kanlungan Center Foundation, Inc.**

**Korean Minjok Leadership Academy**

**Labour Union of Migrant Workers**  
**Migrants Assistance Program (MAP) Foundation / Action Network Migrants**  
**Messrs. Charles Hector**  
**Migrant Forum in Asia (MFA)**  
**Migrant Forum India (mfi)**  
**Migrant Services Centre (MSC)**  
**Migrants – MND PCLU**  
**Migration Working Group**  
**Ministry of Manpower**  
**Monitoring Sustainability of Globalisation**  
**National Centre for Labour**  
**National University of Singapore (NUS)**  
**Osaka University for Foreign Studies**  
**Pacific Studies and College of Asia Pacific Studies, Ritsumeikan Asia Pacific University**  
**PICUM – Platform for International Cooperation on Undocumented Migrants**  
**Public Services International**  
**Refugee and Migratory Movement Research Unit (RMMRU)**  
**Southeast Asia Regional Cooperation in Human Development (SEARCH)**  
**Serikat Buruh Migran Indonesia (SBMI)**  
**Singapore National Trades Union Congress**  
**South East Asian Committee for Advocacy (SEACA)**  
**Southeast Asian Studies, The University of Sydney**  
**St. Francis of Assisi Workers Centre (SFWC)**  
**Ta'amneh Law Firm**  
**Transient Workers Count Too (TWC2)**  
**Tenaganita Women's Force**  
**The Australian National University**  
**The Women and Media Collective (WMC)**  
**Unlad Kabayan Migrant Services Foundation, Inc.**  
**United Nations High Commissioner for Refugees**  
**Welfare Association of Repatriated Bangladeshi Employees (WARBE)**  
**Women's Rehabilitation Center (WOREC)**  
**Working Group for an ASEAN Human Rights Mechanism**  
**Zentoitsu (All United) Workers Union**