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Written statement submitted by the Asian Migrant Centre (AMC) a non-governmental organization in special consultative status

An Urgent Need For A Rights Based Approach To The Migration Discourse Today¹

Migrant Forum in Asia (MFA), together with the Asian Migrant Centre has worked for several years to ensure the protection of the human rights of migrant workers in Asia. We are here to express our concern over the growing human rights violations among undocumented migrant workers in Asian in particular, **the criminalization of migrant workers in Korea and Malaysia.**

We would also like to note the growing concern over migration and development as evidenced by the recent UN High Level Dialogue on Migration and Development (UN HLD) and the upcoming Global Forum on Migration and Development.

We would also like to take note of the recent visit of the UN Special Rapporteur on the rights of migrant workers to Korea and Indonesia.

We express with growing alarm the on-going crackdown and criminalization of migrant workers in both Korea and Malaysia. The crackdown has resulted to numerous human rights violations, forced deportation and deaths of five migrants in Malaysia and one in Korea. We note with alarm that in April 2006, a 30 year old Indonesian migrant worker fell from the third level his dormitory building and died as he tried to escape immigration authorities during crackdown on undocumented migrant workers. Since 2005, more than 180,000 undocumented migrant workers were deported from Korea as a result of the crackdown.

In Malaysia, similar trends are also happening. Since 2002, the MFA network has been monitoring the annual crackdown and massive deportation against undocumented migrant workers. The mass scale of raids and deportations has led to serious human rights violations, including death of migrants. On 11 February 2006, BBC reported that five bodies were retrieved from a lake in Selayang after undocumented migrants trying to flee

¹ Migrant Rights International (MRI) and Forum Asia both NGOs in special consultative status with the ECOSOC share the views in this statement

the raid of RELA (people's volunteer corps or civilians employed by the Malaysian government to help in rounding up undocumented migrant workers)² that was conducted at an open market in the area. (Malaysiakini, 17/2/2006)

MFA believes that no human being is illegal and that all migrants are entitled to protection of their human rights in the countries of origin, transit and destination.

In light of the ongoing debate on the issues of migration and development, we would like to call for cooperation among the UN inter-governmental agencies to work on a framework for migration and development that adheres to the following principles:

- People-centered – place the human person at the center of development and be aimed at improving the quality of life and dignity of all people and their environment;
- Comprehensive – address all rights of migrant workers, including civil and political rights, as well as economic, social and cultural rights and right to self-determination;
- Respect all human rights – assert the indivisibility and interdependence of human rights; failure to protect, respect and fulfill these rights constitutes an obstacle to development;
- Participatory – ensure the participation of key stakeholders including migrants and their families, especially women migrants and excluded, vulnerable or marginalized groups within the migrant community;
- Promote social justice;
- Gender sensitive – ensure the adoption of gender sensitive approaches to development and in the management of migration. Through the gender sensitive lens, the rights of migrant workers include: (1) the right to the highest attainable standard of health, in particular the right to be free from all physical, psychological, and sexual violence; (2) the right to be free from gender-based discrimination; (3) the right to obtain reproductive health services and to obtain appropriate assistance in the event of sexual and gender based violence.

We reiterate our position of rejecting development models based on free-market and neo-liberalist principles, which result in the commodification of workers by prioritizing capital and profits over the rights and dignity of persons. Economic development cannot be positioned as a trade-off for civil and political, economic, social and cultural rights or be prioritized over human dignity.

We would also like to note the recent visit of the UN Special Rapporteur on the Protection of migrant workers to Korea and Indonesia. In light of the on-going crackdown and criminalization of undocumented migrant workers in Korea, we believe that the Special Rapporteur should take into account the situation of undocumented

² People's Volunteer Corps or "*Ikatan Relawan Rakyat Malaysia*" RELA, BBC's report on the 2005 crackdown: <http://news.bbc.co.uk/1/hi/world/asia-pacific/4329067.stm>

migrant workers and recommend specific action for the Korean Government to regularize their status. We would like to call the attention of the Special Rapporteur to the recent fire incident in the Yeosu detention center which killed 9 migrant workers and left 16 others injured. The MFA network is calling for a thorough investigation the incident and a public presentation of the report.

In terms of the Special Rapporteur's visit to Indonesia, we would like to support the Special Rapportuer's recommendation to monitor recruitment agencies in Indonesia especially on their treatment of women migrant workers. We also support his recommendation of ensuring that domestic laws and implementation comply with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Furthermore, we support the Special Rapporteur in calling for the Indonesian Government to ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

In the promotion of the rights and well-being of migrant workers and members of their families, it is necessary to address issues of racism, racial discrimination, xenophobia and intolerance. These are concerns that continue to victimize migrant workers and members of their families. We would like to remind States of their commitment to fight against racism, racial discrimination and xenophobia, as stipulated in the Durban Declaration and Programme of Action (2001).

We would like to appeal to all countries to uphold and protect the rights and well-being of all migrant workers, including undocumented migrant workers. In particular, we would like to appeal to member countries Malaysia, Korea, Indonesia and Thailand to:

- Ratify the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- Stop all human rights violations against migrant workers including the criminalization of undocumented migrant workers;
- Conduct the repatriation of undocumented migrants with due process of law, rather than relying by default on mass deportation measures;
- Examine existing policies and practices to identify inconsistencies between different governmental departments (eg. homeland security/ internal affairs ministry, immigration, labor, health/social welfare, and other departments)
- 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.

Furthermore, we call on all governments to create migration policies based on the following:

- Adhere to the framework for development established by the 1986 UN Declaration on the Right to Development in any discussion and strategy regarding migration and development;

- Develop labor migration policies in accordance with the rights-based approach to labor migration contained within the ILO Multilateral Framework;
- Amend, adopt and enforce national laws to conform, at a minimum, with international standards and regional standards where relevant;
- Continue identifying, exposing, and challenging exploitative and discriminatory policies and laws which affect women migrant domestic workers, and to enact national laws that will provide legal protection and recognition of domestic work as work.

-Asian Migrant Centre
Migrant Forum in Asia