



Detention of Undocumented Migrants in Asia

BACKGROUND

The issue of the detention of migrants, both documented and undocumented, has been taken up by many civil society groups and migrants' rights advocates across the world as states have become increasingly concerned with migrants entering, living, and working within their borders. While the means, mechanisms, and regulations for the detention of migrants vary from country to country, common issues persist stemming from the situation of extreme vulnerability in which migrants live, move, and work given their status as non-citizens in their countries of destination.

UNDOCUMENTED¹ MIGRANTS IN DETENTION: THE ASIAN CONTEXT

For undocumented Asian migrant workers, detention is a growing concern. Like migrants throughout the world, Asian migrants are detained while crossing borders and are arbitrarily apprehended during crackdowns and deportation drives. Whether they are refugees, asylum seekers, visa over-stayers, smuggled or trafficked persons, or people who have unwittingly fallen into a situation of irregularity, many migrant detainees in Asia lack access to legal representation and are subject to long-term detention without charges. While it is extremely difficult to collect and maintain accurate statistics, it is safe to say that tens of thousands of undocumented migrant workers are in detention across the continent.²

Reasons for Detention

Detention has become a default legal and policy response to dealing with the “problem” of undocumented migration. Undocumented migrants are detained on administrative (as opposed to criminal) grounds. They are held for purposes of identity confirmation, immigration claims adjudication, and/or until deportation proceedings can be concluded. Some countries have adopted draconian detention measures for undocumented migrants as a means to deter irregular border crossings and visa overstays, though the effectiveness of such measures is highly contentious, if not outright refutable.

In the post 9/11 context the securitization of national borders has become one of the most pressing policy concerns for states, and has been used to justify all manner

of human rights infringements and xenophobic responses to migrant populations. The detention of migrants is thus justified as a national security measure—as a means of policing borders and preventing “traffickers,” “smugglers,” and “terrorists” from threatening the security of the state. Routinely taken to its extreme, undocumented migrants who present no threat to state security are regularly held in detention, calling into question the legitimacy and proportionality of detention in response to what, in many instances, is a minor administrative offense.

Conditions of Detention

The conditions under which undocumented migrants are held vary widely from country to country, and even within different jurisdictions of the same country, thus it is impossible to generalize on this matter. Conditions are difficult to monitor, as access to detention centres is often highly restricted. That said, some general trends can be established:

Detaining refugees, asylum seekers, & vulnerable migrants

People fleeing violence, war, and human rights abuses are often unable to secure proper documentation, and many are questioned and detained for not having passports, visas, or other forms of valid identification, in spite of pending asylum claims. It is not uncommon for pregnant women, victims of trafficking, and minors to be detained.

¹The terms “undocumented” and “irregular” are used interchangeably in this document to describe the status of migrant workers without identity documents (see Box 1 for full definition).

²This can be inferred from statistics on detention of undocumented migrants in the Asia-Pacific compiled by the Global Detention Project, The Graduate Institute.

Box 1

Important Terminology

“Undocumented” migrants are those without valid identity documents permitting their presence within the country of destination. Some migrants have identity documents that have either expired or have been rendered invalid for any number of reasons. These migrants cannot be considered “undocumented,” but are understood to be in an **“irregular”** situation.

Often, the term **“illegal”** is erroneously applied to migrant workers who are either undocumented or irregular; however, this pejorative characterization is inaccurate and is counterproductive from both humanitarian and human rights perspectives. The term **“illegal”** plays into the xenophobic and hyperbolic discourse that positions migrants as criminals, and that helps to legitimize widespread crackdowns and the detention of migrants.

UN General Assembly Resolution #3449 (1975) affirms the denunciation of the term **“illegal.”** The Resolution **“... [r]equests the United Nations Organs and the Specialized Agencies concerned to utilize in all documents the term: **“non-documented or irregular migrant workers.”**”**

“...detention should never be mandatory or automatic. It should only ever be a last resort, for the shortest period of time possible, and only when no less restrictive measures are available.”

Dr. François Crépeau, Special Rapporteur on the Human Rights of Migrants
(Report to the UN Human Rights Council, 21 June 2012)

Who are undocumented migrants?

An undocumented migrant is someone who is **invisible** and who belongs to an **“unseen community”**... who is part of an **exploitable labour force**, with **few rights** and little, if any, representation, whether through embassies or state entities... who is considered to be **docile and expendable** depending on economic highs and lows...

Undocumented migrants are **“non-citizens,”** abandoned by their countries of origin even if their remittances are welcome. They are often not at fault for the circumstances that led to their irregular status.

They are men and women with the modest goal of earning a living for themselves and their dependents, and who make the difficult choice to migrate as a **strategy for survival.**

Undocumented migrants are definitely not criminals— they are human beings deserving of access to the judicial system, and a life of dignity and respect.

Lack of access and communication

Migrants’ rights advocates across Asia, particularly in the Gulf, have pointed to significant problems of access to migrants in detention. Language and cultural barriers³ make it difficult to track detainees within prison systems; embassies are not always informed (and those that are informed are not always *promptly* informed) of the detention of their nationals in order to render necessary assistance; migrant detainees often lack information about their legal rights and obligations; and fear of police and immigration authorities often prevent detained migrants from pursuing claims or requesting assistance.

Phone calls to community members, embassies, and families are often prohibited, and when migrants’ mobile phones are confiscated, many lose important contact information of those who would be able to assist them.

Conflation of administrative and criminal offenses

An important distinction is to be made between migrants who are detained on criminal charges, and those who are held in administrative detention due to improper documentation. This is highlighted by the requirement in the MWC Article 17(3), that those detained for violations with respect to immigration status should be held separately from convicted persons or those pending trial. This distinction is affirmed in 17(8), in which a migrant held on administrative grounds should not bear any costs associated with his/her detention.

Despite the fact that the prison and immigration detention systems should be separate, it is not unusual for migrants to be detained in prison facilities with criminal offenders. Migrants’ rights advocates in Lebanon report that migrants are held in overcrowded prisons and are delegated menial

³Migrants’ rights advocates in Oman report that Asian names are often incorrectly transcribed, translated, and/or understood (family names vs. given names / nicknames vs. official names, etc.); thus, when social workers, lawyers, or volunteers are made aware of the detention of a migrant worker, they are often unable to track that individual within the Omani detention system. Many migrant detainees have been “lost” within the system as a result. This is likely the case in (and those that are informed are not always promptly informed) many other destination countries.

tasks, such as the cleaning of prison cells and other facilities—tasks that are not required of non-migrant prison inmates. Such blatant discrimination marks a further injustice.

Detention as a punitive measure

Detaining undocumented migrants is justified on the grounds that they must be held only until such time as irregularities in their immigration status can be remedied. This process is meant to be largely clerical and contingent on establishing the identity of the migrant. It is not meant

to be a mechanism for punishment.

However, securitization of borders and heavy reliance on police and police-like immigration units blur the lines between administrative and punitive measures. Arbitrary document checks, unscheduled workplace raids, and crackdowns on migrant communities to round up and deport undocumented migrants are undeniably punitive. Such measures have little to do with the root causes of irregular migration, and are widely practiced across Asia and internationally.

ANALYSIS

States and migrants' rights defenders take different approaches in looking at the dual issues of detention and deportation. For countries of destination, governments simultaneously position migrants as valuable sources of labour and as threats to national security regimes, implementing policies to attract “desirable” migrants and deter “undesirable” others, all the while unofficially tolerating (even welcoming) undocumented migrants to service the market demand for exploitable low-skilled labour. Draconian immigration laws and detention regimes that do not account for the varying conditions under which an individual can become undocumented lead to migrants being arrested and held until such time as their immigration status can be resolved; in most cases, undocumented migrants are summarily deported.

FAULTING MIGRANTS FOR THEIR STATUS

States hold migrants responsible for their irregular or undocumented status, and enforce immigration regulations accordingly. However, this narrow view does not account for the fact that it is ultimately state policy that makes the difference between a documented and an undocumented migrant.

- Labour policies construct low-skilled jobs as undesirable for citizens and incentivize the employment of undocumented workers;
- Immigration policies dictate who must travel with visas and who can enter freely, and set visa policies that inhibit freedom of movement and access to redress; neoliberal economic policies make it more (or less) favourable for industries to rely on exploitable foreign labour forces;
- Foreign policies discriminate, naming those who are “security risks” and those who are not;
- ... the list goes on.

In the end, it is the state's own actions that create situations of irregularity, and states benefit from the labour undocumented migrants provide. Nonetheless, migrants are scapegoats for all manner of “social ills,” and are oppressed in response.

Detention likewise leads policy-makers, law enforcement and immigration officials, and the general public to the conclusion that the migrant is at fault for his/her irregular status. This is clearly not always so—the reasons for the individual's status should be taken into consideration, though such investigations rarely occur.

Migrant workers in tied-visa situations are often forced to flee from their employers in cases of abuse or mistreatment. Others decide to quit their jobs due to problems with payment, housing, benefits, and/or unbearable exploitation. In some cases, migrants are not even aware that they have become undocumented, as their employers have neglected to renew or file necessary paperwork to secure their legal status. Those who cross borders with the assistance of smugglers or independently in search of a better life often do so as a result of an economic imperative.

In failing to give due consideration to the various and multifaceted reasons that someone might fall into an irregular situation, state officials fail to see migrants as individuals and as human beings deserving of respect and entitled to rights under the law.

Detention and deportation is an “out of sight, out of mind” approach that further marginalizes an already vulnerable community, and prevents the development of consumer consciousness about the exploitative conditions that

characterize the production of the products they purchase and use every day.

By resorting to detention and deportation, states smartly wash their hands of a jurisdictional imperative that would require them to investigate, expose, and bring to account the migrant labour industry and the neoliberal economic model that thrives on cheap and exploitable labour.

IMPACT ON MIGRANT COMMUNITIES

Detention has serious ramifications for undocumented migrants and their families, and for all migrant communities. The consequences of detention are rarely (if ever) considered in the formation of immigration regulations or detention policies. Detention and deportation are key mechanisms of control, ensuring access to a “docile” and “exploitable” migrant labour force.

Fear and Intimidation

The constant threat of detention and deportation instills fear in migrant communities. This fear makes migrants, whether documented or undocumented, distrustful of authorities. As such, when abuses or crimes are committed against migrants, they are unlikely to bring complaints forward.

The looming threat of detention and deportation enables employers to assert inordinate control over migrants’ lives.

CRITIQUE

The detention of undocumented migrants raises a number of serious concerns for the protection and promotion of migrants’ human rights. States must acknowledge the many conditions under which migrants can find themselves in an undocumented situation, and should take into account the underlying political, social, and economic structures that lead to irregular immigration status. A number of glaring gaps exist in prevailing policies on undocumented migration and detention.

POLICY GAPS

Detention does not deter undocumented migration

Most migrants are unaware of the detention policies or practices of their countries of destination. The prospect of detention does not generally weigh into migration decisions, or decisions to remain within the country of destination in an irregular status.

Fear and intimidation are rampant among undocumented migrant communities, pushing them further underground and perpetuating exploitation and abuse.

Inability to connect with family members

Those who are held in detention are often unable to connect with their families, and their families are largely powerless to assist them. When undocumented migrants are detained, either crossing borders or otherwise, family members in their country of origin often lose track of them.

Criminalization of migrants

In spite of the clear-cut distinction between the types of offences (criminal vs. administrative), the detention of undocumented migrants serves to further the “criminalization” discourse—imprisonment denotes wrongdoing/criminality, and serves as a mechanism to marginalize all migrants, as they are pejoratively cast as “illegals” who are threats to their host societies, rather than as important contributors to their countries of origin and destination.

Criminalization feeds into the practices of states that impose severe (and largely ineffective) detention measures as deterrents to would-be migrants. Such policies also serve to perpetuate xenophobia and racism against migrant communities.

Detention and deportation result in dangerous stereotypes and deny the fundamental right to freedom of mobility. Even community-based detention alternatives, such as house arrest, ankle bracelets, or other physical surveillance mechanisms, fail to wipe away this stigma.

Detention is not cost-effective

Holding people in administrative detention is very costly and is largely unnecessary, as many migrants may opt for voluntary repatriation to regularize their status if possible.

Detention undermines the human rights of migrants

The rights to mobility, liberty, and family reunification can all be compromised with the use of administrative detention. Human rights consequences are more serious for asylum seekers who have likely come from traumatic situations—to be detained can adversely affect their well-being. Migrants are at risk of arbitrary detention during crackdowns and immigration sweeps.

Pursuing alternatives to detention does not solve the problem

An alternative to detention can only be an alternative if it is not another form of restraint.

William Gois, Regional Coordinator, MFA
HRC Side Event, 19 June 2012

Community-based “humane” means of detention and/or surveillance should not be pursued as viable alternatives. Alternative forms of detention accept the premise that the practice of detention or mobility restriction in administrative cases is legitimate, even if undocumented migrants pose no risk to society or property. The criminalizing stigma and psychological burden that accompanies detention is no less severe when alternatives are administered.

“FREEDOM IS THE RULE— DETENTION IS THE EXCEPTION”

Much like the rapid growth of the prison industrial complex, detaining migrants is fast becoming an industry. Detention centres are being privatized and run by large companies, and increasingly resemble prisons. The vast and growing numbers of migrants in detention throughout

the world shows that there are fundamental problems with the system—states are failing to address the reasons that people become undocumented and are resorting to arbitrary and prolonged detention and deportation as a quick fix.

Detaining migrants due to their legal status should only ever be a last resort, after all other measures have been exhausted, due process has been observed, and only ever on a case-to-case basis. Children and vulnerable persons should never be detained. Regularization should always be prioritized over detention and/or deportation.

...detention should never be mandatory or automatic. It should only ever be a last resort, for the shortest period of time possible, and only when no less restrictive measures are available. There should be a presumption in favour of liberty in all cases, and individual assessments should be guaranteed. States should adopt a human rights approach to migration and review laws and policies on detention to ensure that they are in harmony with human rights norms that prohibit arbitrary detention. All states should consider abolishing the administrative detention of migrants.

Dr. François Crépeau, Special Rapporteur on the Human Rights of Migrants (Report to the UN Human Rights Council, 21 June 2012)

States must be held to account: they should not be allowed to opt out of the discussion on the root causes of undocumented migration and the human rights failings that result from the current global economic system. Detention in all its forms provides a convenient escape from this crucial discussion, and continually undermines the rights of migrant workers everywhere.

APPLICABLE HUMAN RIGHTS STANDARDS

The following human rights instruments apply to the issue of undocumented migrants in detention:

- Universal Declaration of Human Rights, 1948 (UDHR)
- Geneva Convention Relating to the Status of Refugees, 1951 (RC)
- Vienna Convention on Consular Relations, 1963 (VCCR)
- International Covenant on Civil and Political Rights, 1966 (ICCPR)
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT)
- Convention on the Rights of the Child, 1989 (CRC)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (MWC)

These instruments provide for the following⁴:

Detention should not be a default measure

MWC, 16(1): *Migrant workers and members of their families shall have the right to liberty and security of person.*

CCPR, 9(1): *Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his [or her] liberty except on such grounds and in accordance with such procedure as are established by law.*

RC, 31(1): *The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened [...] enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*

RC, 31(2): *The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.*

Freedom of Movement

ICCPR, 12(1): *Everyone lawfully within the territory of a state shall, within that territory, have the right of liberty of movement and freedom to choose his residence.*

RC, 26: *Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.*

RC, 31(2): *The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.*

Prohibition of Arbitrary Detention

ICCPR, 9(1): *...No one shall be subjected to arbitrary arrest or detention...*

MWC, 16(4): *Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.*

UDHR, 9: *No one shall be subjected to arbitrary arrest, detention or exile.*

Right to be Informed of the Reasons for Detention

ICCPR, 9(2): *Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

MWC, 16(5): *Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.*

⁴Adapted from Amnesty International (2007) Migration-Related Detention: A research guide on human rights standards relevant to the detention of migrants, asylum seekers, and refugees. London. Available at: <http://www.amnesty.org/en/library/asset/POL33/005/2007/en/fo7d6dce-ad6b-11dc-a4b5-ef6c4a573348/pol330052007eng.pdf>.

<p>Right to Challenge Lawfulness of Detention</p>	<p>ICCPR, 2(3): Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.</p> <p>ICCPR, 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</p> <p>MWC, 16(8): Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.</p>
<p>Access to Legal Counsel, Representation</p>	<p>MWC, 16(7): When a migrant worker or a member of his or her family is arrested or committed Legal to prison or custody pending trial or is detained in any other manner: [...] (c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.</p>
<p></p>	<p>MWC, 18(3)(d): Migrant workers and members of their families shall have the right] [t]o be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay.</p>
<p>Right to Compensation</p>	<p>MWC, 16(9): Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.</p>
<p></p>	<p>UDHR, 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.</p>
<p>Protection, Torture, Cruel, Inhuman, Degrading Treatment</p>	<p>UDHR, 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or against punishment.</p> <p>ICCPR, 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...</p>
<p></p>	<p>ICCPR, 10(1): All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p>
<p></p>	<p>CAT, 2(1): Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.</p>
<p></p>	<p>CAT, 2: No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.</p>
<p></p>	<p>CAT, 11: Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons. subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.</p>

Humane
Conditions in
Detention

ICCPR, 10(1): All persons deprived of their liberty shall be treated with humanity and with respect in for the Conditions inherent dignity of the human person.

MWC, 17(1): Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

MWC, 17(3): Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

MWC, 17(7): Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same

Contact with
Families and
Consular
Officials

MWC 17(5): During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

MWC 16(7): When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner: (a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefore; (b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay; (c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

MWC 23: Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired...

VCCR 36(1): With a view to facilitating the exercise of consular functions relating to nationals of the sending State: (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State; (b) if he so requests, the competent authorities of the receiving State shall, without delay, inform of the sending State if, within its consular district, a the consular post national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph; (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation... Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

RECOMMENDATIONS

The following recommendations should be considered with a view to establishing anti-oppressive, rights-based, and gender-responsive policies:

- Undocumented migrant workers and their advocates call on states to take on a **rights-based, anti-oppressive, and gender responsive approach**. States should immediately put a stop to crackdowns and deportation drives, and seek people-centred solutions that respect individuals and their human rights.
- States should see **detention as a last resort**, rather than as a default response. Detention should only ever be on a case-by-case basis, with due process and adequate consideration of the reasons for the migrant's undocumented status.
- **Regularization** should be prioritized over detention as a policy response. Community-based alternatives to detention must not be pursued, and do not absolve the state's responsibility not to detain unless as a last resort.
- Migrants who are detained must be given **access to information** in a language they can understand, be allowed to contact their embassies and families, and have access to legal counsel. This should be not only allowed, but also facilitated by law enforcement and immigration enforcement officials.
- **Detention of migrants should never be arbitrary or punitive**; migrants in an irregular situation must be given opportunities to regularize their status or to voluntarily repatriate.
- States should **consider the adoption of "bridging visas,"** which allow migrants who have fallen into situations of irregularity through no fault of their own to apply to reinstate their regular status.
- **Pregnant women, minors, asylum seekers, and other vulnerable migrants** should never be held in detention.
- **Firewalls should be established** between essential service providers and immigration enforcement, in order that undocumented migrants can access services without fear of detention and deportation.
- States must acknowledge and rethink their reliance on an exploitable and vulnerable undocumented labour force, and pursue policies that would **extend to migrant workers the same rights as all other workers**, regardless of race, sex, ethnicity, religion, and skill level.
- All states should, without delay, sign the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990**.

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