

MIGRANT FORUM IN ASIA NEWSLETTER



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Ratify C189 now! MFA builds and advances strategic alliances for the promotion of decent work for domestic workers



From left: MFA's badge campaign; on C189 ratification; Delegates from Asia, America and Europe gathered at the April 2012 C189 conference, focusing on building alliances with faith-based groups; ITUC's 12x12 campaign where MFA is a partner.

One year since the adoption of ILO Convention 189- Decent Work for Domestic Workers, labor rights advocates are more steadfast in their campaign for States' ratification and implementation of this international labor rights treaty. This convention is a first of its kind that formally recognizes domestic workers as workers. 16 June, the day ILO C189 was adopted, has been marked as International Domestic Workers Day, and surely enough the commemoration of this event in history amplified the call for the promotion of decent work for domestic workers.

Migrant Forum in Asia (MFA) carries on with its decades long advocacy for social justice for all migrant workers and members of their families, and the issue of migrant domestic workers has been at the top of its human rights agenda. Building and advancing strategic alliances with grassroots, national and international partners are crucial in this

struggle for rights recognition, promotion and protection.

The second quarter of 2012 was immensely dedicated to deepening solidarity and strengthening strategies. On 14-15 April 2012, MFA, German Commission for Justice and Peace, Association of Major Religious Superiors of the Philippines-Migrants Center (AMRSP-MC), International Domestic Workers Network (IDWN), Global Network and Philippine Technical Working Group (TWG) organized "Building and Advancing Strategic Alliances for the Promotion of Decent Work for Domestic Workers." This conference picked up from the October 2011 process where MFA partners forged an action plan that lays foundation for joint ratification advocacy at the national and regional levels.

The two-day gathering was particularly intended to fostering partnerships with faith-based groups. Faith

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-based groups offer a new dimension to the campaign, that is, to provide ethical deliberations and to recognize the potential of these groups to call for a shift in public consciousness. Around sixty representatives from domestic workers groups, migrants groups, trade unions, civil society organizations and faith-based groups participated in the conference. Countries represented were: Cambodia, Hong Kong, Germany, India, Indonesia, Jordan, Lebanon, Nepal, Pakistan, the Philippines, Singapore, Thailand and the USA.

“12 x 12” is a worldwide campaign which aims to get 12 countries to ratify C189 by the end of 2012. The campaign has already mobilized 12 by 12 coalitions in 73 countries, demanding the ratification of C189 and better national laws. MFA also recently identified 14 priority countries (including ITUC’s Asian countries) where there is an MFA grassroots member on the ground. These countries are Bangladesh, Cambodia, China, India, Indonesia, Israel, KSA, Lebanon, Malaysia, Nepal, Philippines, Qatar, Singapore, Sri Lanka, Thailand, and UAE.

Possible joint activities to provide visibility to the ratification campaign were drawn up and is expected to be implemented within 2012. Among the activities include: Organize country level and regional impact activities; Increase the pressure on

C189 ratification campaign was the main highlight of actions during Labor Day, International Domestic Workers Day and at national level activities. In the Philippines, labor rights advocates mass gathered at historic Mendiola in Manila on 1 May 2012 for the



From left: Mass action in the Philippines during International Labor Day where push for C189 ratification and passing of national domestic workers' bill into law were made visible; Gathering of different migrants groups and unions for International Domestic Workers Day in Hong Kong; Campaign logo of trade unions and domestic workers rights groups in Andhra Pradesh, India.

governments in Asian countries to ratify C189; Increase awareness-raising and education activities on C189 and its ratification; Outreach meetings with national, regional and international media; Create common audiovisual materials for the C189 campaign; Find or create more space for planning/action with faith-based groups; and Explore campaigns in other countries supportive of C189.

C189 comes into force when two countries ratify it. Uruguay became the first country in the world to ratify, when it made the announcement on 26 April 2012. The Philippines is expected to be the second in the world and the first country in Asia to ratify C189. Efforts are underway to pressure the government of the Philippines to speed up the process of ratification. The action plans drawn up from October 2011 and April 2012 conferences are being carried out and so is International Trade Union Confederation's (ITUC) “12 by 12” campaign in which MFA is a partner.

annual commemoration of International Labor Day. Different trade unions and civil society groups were united in the struggle of workers in the midst of precarious work. MFA and Philippine members and partners marched to Mendiola holding banner signs to ratify not only the UN Migrant Workers Convention but also C189 and to sign in to law the Philippines Kasambahay (domestic workers) Bill. On 18 May 2012, President Benigno Aquino signed C189. The convention is only awaiting final ratification by the Senate of the Philippines. Because of the Philippine Technical Working Group on Domestic Work's unrelenting advocacy, Senator Loren Legarda delivered a speech in the Senate with C189 and Kasambahay Bill as the main theme, highlighting the need for ratification and passing into national law of the said instruments. The Philippine Senate will finally act on the ratification of C189 on 25 July 2012, when it resumes its regular session.

In Hong Kong, MFA member Coalition for Migrants Rights (CMR) organized on 17 June 2012 together with its migrant workers groups and unions: FDWU, FEONA, KOTKIHO, Thai Migrant Workers Union (TMWU), Thai Women's Association (TWA) and Union of Nepalese Domestic Workers Union (UNDW). The program included C189 information session that invited questions from participants. Also in Hong Kong, MFA member Indonesian Migrant Workers Union (IMWU), organized a rally on the eve of 16 June 2012 in front of the Indonesian Embassy, calling on the Indonesian government to ratify C189. IMWU also called on the Indonesian government to revoke its national law no. 39/2004 on the overseas placement of Indonesian domestic workers. MFA members in India—Migrants Rights Council (MRC) and National Domestic Workers Movement (NDWM) on 14 and 16 June 2012 assembled a full house of trade union members, domestic workers and rights advocates in Hyderabad and Tamil Nadu to raise more awareness on C189 and demanding the Indian government to ratify the convention. In Singapore, HOME gathered over 200 domestic workers members 17 June 2012 to place their finger prints on the statement of International Domestic Workers Day. The statement was sent to the Ministry of Manpower. (more activities at idwn.org). A statement for International Domestic Workers Day was released by MFA on 16 June 2012: Ratify and Implement ILO Convention 189 on Decent Work for Domestic Workers Now! The statement was endorsed by 59 civil society groups, trade unions, and NGOs across Asia, in Germany and the USA.

Across the South Asian region, labor rights advocates are also making intense efforts to make the voices of domestic workers heard and recognized in national policies. There is a need to organize a platform to further intensify the efforts on C189 ratification in the South Asian region and enhance dialogue and cooperation among civil society and duty bearers. Thus, a South Asia Consultation on C189 was held in Thiruvananthapuram (Trivandrum) Kerala, India on 25-26 June 2012. The two-day consultation was organized by MFA and Solidarity Center, together with Center for Development Studies (CDS) and MFA members in India, Migrant Forum and Center for Indian Migrants Studies (CIMS). Around sixty representatives of migrants groups, domestic workers unions and organizations, trade unions,



A workshop session during the South Asia Consultation on C189. Representatives were from Bangladesh, India, Nepal, Philippines, Sri Lanka, the Maldives, Canada, and the USA.

government representatives, media and the academe convened to collaborate and strategize the advocacy to pressure governments to recognize and implement protection measures for domestic workers and the promotion and ratification of ILO C189. Countries represented were: Bangladesh, India, Nepal, Philippines, Sri Lanka, the Maldives, Canada, and the USA.

Discussions centered on a better understanding of domestic work especially in the context of South Asia; an awareness of C189; a grasp of the ratification process and the on-going global ratification campaign; and contribution to a collective thinking on how to promote awareness of C189 and its ratification and advance its implementation.

The consultation in India is part of a global initiative that seeks to promote the recognition and ratification of C189. It is not a standalone program but a process that was linked to the progress and momentum created by previous conferences and deliberations leading to and after the adoption of C189 in 2011. As 2012 progresses and as countries are about to or beginning to consider ratifying C189, MFA members and partners continue to remain vigilant, indefatigable and proactive in their stance to promote decent work for domestic workers, and with that comes greater shared responsibility and requires strategic alliances. **END**

Second international committee meeting held in Manila for the 5th WSFM; Updates on preparation for the global civil society process in 2012



Attendance was in full force on 12-13 April 2012 when thirty four organizations converged in Miriam College for the Second International Committee (IC) Meeting for the 5th World Social Forum on Migration (WSFM). The first meeting of the IC was held on December 2011 in Geneva, Switzerland during the 6th Peoples' Global Action on Migration, Development and Human Rights (PGA).

The International Committee of the WSFM who met with the Philippine Working Group (PWG— local organizers of the 5th WSFM) were Asia Pacific Mission for Migrants (representing Miredes International), MFA (technical secretariat of the 5th WSFM), National Alliance of Latin American and Caribbean Communities (NALACC), and the Palestinian National Council (PNC). IC members who joined in by skype conference were ALER, Espacio Sin Fronteras, and Miredes International. MFA members and partners sat as observers during the two day discussions. The agenda included call for proposals for poster session and workshops, registration fees, plenary speakers, scholarships, finance and resource mobilization updates and membership to the International Committee.

The 2012 WSFM will be a five day program, from 26 -30 November, that will include a one day field visit as well as mobilization with local workers organizations and trade unions. The program this year is different from the previous WSFMs as it will include field visits to migrants' and migrant families' communities and national government agencies of the Philippines dealing with migration.

Civil society groups, trade unions, NGOs and members of the academia can participate by organizing workshops and poster sessions. MFA circulated a call for proposals in the second quarter of the year and deadline of submissions was 15 July 2012. Miriam College will be the physical venue for the five-day program.



Members of the Philippine Working Group and International Committee of the 5th WSFM, MFA members and partners came together on 12-13 April 2012 for the 2nd International Committee Meeting.

A press conference was organized on 13 April 2012, giving greater visibility to the global civil society process on migrants rights in 2012. **END**

To get the latest on the 5th WSFM, visit

www.wsfm2012.org

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Meaningful participation of all stakeholders, more transparency of regional consultative processes urged at the 2nd Abu Dhabi Dialogue



From left: William Gois (MFA), Alex Zalami (UAE), Abdulrahman Alghanim (Kuwait Trade Union Federation) and Maysoon Qara (National Jordanian Women's Commission); Andy, a migrant worker, giving his insights to Mr. Alex Zalami.

Manila - Twenty civil society organizations and trade unions from Bangladesh, Hong Kong, India, Jordan, Kuwait, Lebanon, Nepal, Oman, Philippines, Qatar, and Sri Lanka met at the "Civil Society Parallel Event on the 2nd Abu Dhabi Dialogue" on 17-19 April 2012 at Traders Hotel, Manila, Philippines. The parallel process was mainly organized to correspond to the official 2nd Abu Dhabi Dialogue hosted by the Philippine government on 17-19 April 2012, held in Sofitel Hotel, Manila, Philippines. Labor ministers from 19 countries from Asia and the Middle East met in the second round of this particular regional consultative process which carried the theme, "Sustaining Regional Cooperation toward Improved Management of Labor Mobility in Asia." One week before the official meeting, organizers extended a few invitations to civil society representatives to take part as observers to the process.

The 2012 Civil Society Parallel Event organized by MFA became the venue to discuss civil society's recommendations for governments. It paved the way for CSOs, migrants' rights advocates and trade unions to review its engagement with the process, foster greater understanding of the most pressing issues in the region, enhance collective actions and continue the process of sustaining CSO participation in inter-governmental dialogues.

The 2nd Abu Dhabi Dialogue aimed to follow up on the first meeting of ministers in 2008. Countries of origin and destination made final deliberations on and adopted the 2012 Framework of Regional Collaboration and Operating Modality of the Abu Dhabi Dialogue. Alternatively, the Civil Society Parallel Process on the 2nd Abu Dhabi Dialogue issued a press release written in collaboration with Human Rights Watch, which was circulated prior to the opening of both the parallel process and the Abu Dhabi Dialogue. The three day deliberation concluded with strong recommendations for governments and a Civil Society Conference Declaration to the 2nd Abu Dhabi Dialogue.

The Abu Dhabi Dialogue is a voluntary, non-binding and informal state-led consultative process engaging seven Asian countries of labor destination: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, UAE, Yemen; and eleven countries of origin: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam. Japan, Singapore, Malaysia and Korea participate as observers.

The Abu Dhabi Dialogue was one of the key outcomes of the 2005 Colombo Process in Bali, Indonesia, where the GCC countries, more known as countries of destination, participated in an observer function. At the 2005 Colombo Process it was affirmed that an expanded meeting

between destination and sending countries in Asia would bring about maximum benefits on contractual labor; hence, the idea of a 'Ministerial Consultation between the Colombo Process countries and some destination countries on the Administration of Temporary Contractual Employment Cycle,' now commonly referred to as the "Abu Dhabi Dialogue," came about.

While there is de facto acknowledgment that regional consultative processes (RCPs) such as the Abu Dhabi Dialogue are exclusive to governments of origin and destination countries, a space in the official process for the important voices of civil society, trade unions, academia and media in the deliberation of workers' rights should also be provided. Migrant workers and members of their

Migratory Movements Research Unit (RMMRU), an MFA member in Bangladesh, said about the Dialogue, "It will perhaps be fair to conclude that the Gulf Forum on Temporary Contractual Labour has opened up new vistas of cooperation of stakeholders of both ends. The willingness of the GCC states to engage with their own civil society institutions and also with the governments and civil society of the sending states and the presence of many of Gulf Ministers throughout the duration of the Forum and their active participation in the deliberations may be viewed as reflections of a serious commitment to engage on the issue of 'temporary contractual labor.' It is hoped that this dialogue process will continue and bear fruits with the states at both ends committing to improve their legal and institutional frameworks to better serve the



Participants at the Abu Dhabi Dialogue in workshop sessions; Rex Varona (MFA) reviewing country developments since the 2008 Abu Dhabi Dialogue.

families are at the heart of migration policy discussions. Civil society such as Migrant Forum in Asia and its trade union partners therefore remain vigilant and committed to taking part in RCPs. One of the means to put a rights-based perspective on the agenda of these spaces is to actively engage and collaborate with stakeholders directly involved in such processes. While RCPs have their own specific agenda driven by States, parallel processes serve as an outside strategy and alternative space for civil society and unions in which matters and recommendations that fall on the sidelines of official processes are tackled and forwarded to governments. The network takes advantage of invitations to the official processes and treat them as an inside strategy that allows them to make visible, deliver and influence rights-based discussions on labor migration.

The first Abu Dhabi Dialogue that took place in the UAE extended an invitation to MFA to take part in its panel discussion. Dr. Abrar of the Refugee And

labor force deployed in the Gulf region."

Since the 2008 Abu Dhabi Dialogue, MFA strengthened its commitment to put migrants' rights on the agenda of regional consultative processes. The network established a Colombo Process Working Group (CPWG) which aims to institutionalize the advocacy, voice and impact of Asian trade unions, CSOs, the media and academia in deliberations with the respective governments that send and receive migrant workers. In the intervening years, MFA and the CPWG organized consultations that followed up on the action plans and recommendations made in both the parallel and official processes. One notable process is the parallel consultation at the 4th Colombo Process in Dhaka, Bangladesh on 17-18 April 2011. The network lobbied for participation and had its breakthrough when MFA was invited in the plenary and roundtable talks on 20-21 April 2011. MFA

delivered its statement and recommendations for the Colombo Process governments.

At the The Civil Society Parallel Event to the 2nd Abu Dhabi Dialogue on 17-19 April 2012, civil society and trade union partners of MFA provided their own inputs to the nine points in the 2012 Framework of Regional Collaboration, copies of which were forwarded to ministers met by civil society observers at the official process. They emphasized strict regulation of recruitment agencies, employment contract that should be standardized, recognized and enforceable in both countries of origin and destination, recognition of the roles of civil society and trade unions not only in the reintegration process but in all phases of migration, among others. Furthermore, the MFA network validated in the consultation a series of policy briefs on issues that are quickly developing in the region: Reforms to the Kafala System, standardized contracts for migrant domestic workers, and reference wage. The policy briefs were finally shared to the Chairs of the Abu Dhabi Dialogue.

The Advisor to the Minister of Labor (UAE), Mr. Alex Zalami, yielded to the strong persuasion of civil society and trade union groups to take part in one of the sessions of the parallel process. In this session, the participants challenged the accountability of governments in responding to migrant workers' rights issues. One specific point raised was the availability of RCP and government reports to the public. The documents are difficult to locate, and may not be even available in other languages like Arabic. These documents are important because as civil society and trade unions, they can facilitate or coordinate with governments in identifying gaps in States' commitments to labor migration and labor rights. The membership to the RCPs was also questioned. Besides the 20 States, there are other countries of destination not represented in the process. If the Abu Dhabi Dialogue is about "sustaining regional cooperation toward improved management of labor mobility in Asia," the process should be inclusive to all stakeholders in the region.

Civil society and trade unions will find every possible space to engage with governments and other relevant stakeholders, and put the promotion and protection of the rights of migrant workers and members of their families on the main agenda. Now that they have come together and their impact is gaining ground, it is time to start preparing for 2014

While space for civil society was given at the official process, albeit very limited, a parallel, self-organized consultation was necessary to tackle issues that may have been relegated to the periphery of inter-governmental discussions.

– for the next Abu Dhabi Dialogue. Civil society and trade unions should be part of the modality.

The start of the engagement can take small steps. Civil society and trade unions possess the knowledge, and have the initiatives and capacities. The incremental steps can take the form of: Sharing civil society and trade union documents with the Abu Dhabi Dialogue delegation and Secretariat; Sitting down with the delegation that attended the 2012 Dialogue, and discussing with them what has transpired from the 17-19 April parallel process; Translating the documents (policy briefs, declaration, framework and modality documents) in to the local languages; Strengthened collaboration of civil society and trade unions; and Communicating Abu Dhabi Dialogue discussions to other processes, forums and meetings. **END**

Read the Civil Society Conference Declaration to the 2nd Abu Dhabi Dialogue here:

<http://www.mfasia.org/home/452-civil-society-parallel-event-on-the-2nd-abu-dhabi-dialogue-conference-declaration>

Access the final 2012 Framework of Regional Collaboration here:

<http://dl.dropbox.com/u/52275946/Annex%201%20and%202%20-%20Framework%20and%20Modality.zip>

Study tour in the Maldives: Forging partnership in South Asia for the protection of migrant workers

The Maldives. Besides being known as a tourist destination for its lush islands and beaches, the smallest country in Asia is also a top destination for migrant workers coming mostly from labor sending States in South Asia like Bangladesh and Sri Lanka. What is not very well known however is the number and situations of migrant workers coming to, living in, working in and leaving the country, and whether there is labor migration policies put in place to protect the rights of the migrant workers, especially those employed in semi-skilled and low-skilled sectors.

MFA and Solidarity Center, with the cooperation of the Human Rights Commission of the Maldives (HRCM), organized a workshop and study tour on 30 April – 2 May 2012 in the Maldives, with participants from civil society, trade unions, government agencies, and national human rights institutions (NHRIs) from Bangladesh, Sri Lanka and the Maldives. The workshop and study tour aimed to: Better understand labor migration flows in the South Asian region; Strengthen collaboration with support institutions and mechanisms in the Maldives and South Asia in general to advance protection of the human and labor rights of migrant workers; and Dialogue with High Commissions or Embassies and learn more about their roles in policy implementation and in supporting migrant workers in the Maldives.

For years now, MFA and Solidarity Center have been organizing and actively engaged in spaces for capacity building of and advocacy with different stakeholders – civil society organizations, trade unions, government agencies and NHRIs, in countries of origin and destination of migrant workers. Such discussion spaces reach out to a broader constituency that aims to create a wider scope of engagement. The collaboration of various groups, organizations and institutions is crucial in bringing social justice to migrant workers and members of their families. MFA and Solidarity Center facilitate in aligning the objectives of these stakeholders with regard to labor and human rights promotion and protection.

The Maldives workshop and study tour was a follow up to a previous migrants rights training program



Study tour participants come from civil society and trade unions, national human rights institutions and government agencies in Bangladesh, Sri Lanka and the Maldives.

jointly organized by MFA, Solidarity Center and HRCM in January 2012 in the Maldives. This program not only provided practical knowledge of international standards and mechanisms relevant to the promotion and protection of migrant workers' rights but also built partnership with HRCM, civil society and trade unions in the country.

The 30 April – 2 May 2012 program achieved successes. It brought together three national human rights commissions – Bangladesh, Sri Lanka, and the Maldives – in one space that paved a promising collaboration of human rights institutions in South Asia. The participation of Bangladesh's Bureau of Manpower, Employment and Training (BMET) gave a government's perspective on labor migration. Civil society and trade unions contributed in the enhancement of the discussions and recommendations on how to move the migrants' labor and human rights agenda forward, at the national and regional levels. And finally the media was a key ally that can frame the discourse and help the public rethink about the situations of migrant workers in semi- and low-skilled employment.

On 1 May 2012, at the occasion of International Labor Day, a press conference was held to highlight the discussions in the workshop and the field visits to the detention center, worksites, and meetings

with the High Commissions of Bangladesh and Sri Lanka, the HRCM and conversations with migrant workers of different nationalities.

The Maldives workshop and study tour concluded with an urgent appeal for a multilateral approach to be undertaken among the South Asian countries in addressing the major gaps in the regulation and protection mechanisms of labor migration within the region. The participants call upon the Maldives as chair of the South Asian Association for Regional Cooperation (SAARC) to ensure that as it hands over its chairmanship for the next SAARC Summit that the issue of migrant workers within and from the region will be a primary thematic area for discussion resulting in concrete policy development that safeguards the fundamental human and labor rights of all migrant workers. **END**

The role of community education and information awareness among migrant workers is vital. We recognize that “a worker is a worker is a worker everywhere.” What is good for the Maldivian worker, is good for the Bangladeshi worker, is good for the Indian worker, is good for the Sri Lankan worker, is good for the worker everywhere.

– Maldives workshop and study tour press statement, 1 May 2012, Male, Maldives

For a related story, read The Sunday Leader's “Slipping Through The Cracks.”

<http://www.thesundayleader.lk/2012/05/13/slipping-through-the-cracks/>

Building awareness and capacity for (migrant) domestic workers rights advocacy, main theme of workshop in Sri Lanka

Colombo – Solidarity Center, together with MFA conducted a day long workshop on 10 June 2012 on the recognition and promotion of the ratification of ILO Convention 189 Decent Work for Domestic Workers. Trade unions, civil society and government officials from Sri Lanka were the main

participants of the workshop.

The workshop focused on building awareness on ILO Convention 189 as well as solicited support for the ratification and implementation of the Convention. The plan of action for the promotion of the ratification and implementation of the convention was shared to the participants. It was agreed in the workshop that all parties concerned will take responsibility to pressure the Government of Sri Lanka to ratify the convention.

Consistent to the objective of the workshop was the promotion of alliance building and networking with other sectors, such as national human rights institutions.

This workshop is part of the long standing collaboration of MFA and Solidarity Center in building and strengthening linkages between stakeholders of sending and receiving countries for the protection and promotion of the rights of migrant workers and members of their families. MFA and Solidarity Center are currently working in three countries of origin—Nepal, the Philippines and Sri Lanka, and one country of destination—Qatar, for this particular collaboration. **END**

Capacity building program for migrant workers rights advocacy in the Middle East and Asia in Lebanon

Held in partnership with Diplomacy Training Program (DTP), MFA, International Labour Organisation (ILO) and Caritas Migrant Centre, Lebanon, the Capacity Building Program for Promoting and Protecting the Rights of Migrant Workers in the Middle East and Asia was successfully organized on 21-25 May 2012 in Beirut, Lebanon. Participants from Bahrain, Bangladesh, Indonesia, Jordan, Kuwait, Nepal, Oman, Philippines, Qatar, Sri Lanka, Switzerland, and Yemen converged at the Padova Hotel for five days to delve deeper in the understanding of specific international standards and processes, so that they can relate these standards to their work for migrant workers and use these standards in their advocacy and other work for migrant workers. **Continued at page 15**

MFA engagements at the 20th Session of the Human Rights Council

During the first week of the 20th session of the Human Rights Council (HRC) on 18-23 June 2012, MFA representatives joined the Migrants Rights International (MRI) delegation, attending the daily HRC sessions, participating in various side events, and connecting with their government officials and non-governmental representatives. This section highlights the crucial engagements of MFA and MRI at the HRC.



Panelists of MRI's side event on detention, from L-R: MRI/NNIRR's Colin Rajah (U.S.A.), Andy Hall (Thailand/Burma), Special Rapporteur on the human rights of migrants Francois Crepeau, MRI/MFA's William Gois, Migreurop's Claire Rodier (Europe). Photo courtesy of MRI.

MFA / MRI side event: Detention of migrant workers - A global human rights crisis

In response to the first thematic report of the Special Rapporteur on the human rights of migrants, which focused on the detention of migrants in an irregular situation, MFA and MRI organized a side event on 19 June 2012 to affirm that this is a significant issue affecting the lives of migrant workers and migrant communities across the world, to provide the Special Rapporteur with more information about the concerns of civil society on this issue in various regional contexts (Europe, the Americas, Asia), and to encourage the SR to carefully consider the “alternatives to detention” discourse, which many civil society advocates consider to be potentially problematic.

The panelists of the side event were Claire Rodier (Migreurop, Europe), Colin Rajah (NNIRR, USA), and Andy Hall (Mahidol Migration Centre, Thailand). François Crépeau, SR on the human rights of migrants, was the special guest of the side event.

Moderated by William Gois (MFA), the discussions raised crucial issues. One is that detention deprives migrants of their liberty, despite the fact that irregularity is an administrative (not a criminal) offense. The proportionality of this response can and should be called into question. Second, migrant workers are frequently detained at work, in their homes, or in their communities in sweeping “crackdowns”. Third, detention has been used as a tool to extort migrant workers (as is often the case in Thailand). Fourth, there are significant gaps in data with respect to the numbers of irregular migrants worldwide, and particularly regarding the numbers of undocumented migrants in detention. Fifth, national security is prioritized over human security, and detention regimes violate the basic rights of migrant workers to access to justice, due process, and freedom of mobility. Finally, migrant detention regimes are often arbitrary. Children and vulnerable migrants are often detained.

Speaking two days prior to his submission of his report to the Council, the SR elaborated some of the most urgent issues in his report, namely that detention should never be mandatory or automatic. This was later adapted by the delegation into the



20th session of the Human Rights Council. 18 June 2012.
Photo courtesy of Jean-Marc Ferré, United Nations—Geneva

Mr. Patrick Taran of GMPA opened the panel and raised the issue that discrimination and xenophobia is on the rise worldwide, exemplified by current research. Xenophobia presents a serious threat to social cohesion and the economic functioning of “sending” and “receiving” economies. “Foreignness” is the new “othering”, justifying exclusion from the national community. In the past, it was foreign nationals (citizens) who were the victims of such intolerance. This is occurring at a time when foreign labour is becoming increasingly important to northern/western countries due to demographic change. As such, establishing a regime of equality / non-discrimination is imperative

slogan “Freedom is the rule. Detention is the exception!”, which was used in the MRI statement to the HRC. The SR also reiterated that migrants should not be held in detention for a long term, conditions in detention should be humane and monitored independently, that vulnerable migrants should not be detained, and that “non-custodial measures” should always be pursued over detention. He pointed out that civil society has to take up these issues, due to the difficulties irregular migrants face in mobilizing and organizing themselves. **END**

GMPA held side discussion on discrimination and xenophobia

This side event, hosted by the Global Migration Policy Associates (GMPA) and the Graduate Institute, Geneva, aimed to address the issue of persistent racism and xenophobia against migrants and migrant communities across the world, and to brainstorm on how the issue can be recast or “rebranded” in order to challenge negative attitudes (and policies informed by, and that inform such attitudes) towards migrants. Speaking in the panel were Patrick Taran, GMPA; William Gois, MFA; Pia Oberoi, Office of the High Commissioner for Human Rights; John Wrench, Norwegian University for Science & Technology; François Crépeau, Special Rapporteur on the human rights of migrants; Guillermo Reyes, Mission of Mexico in Geneva; Jean-Philippe Chauzy, International Organization for Migration; and Jin Sook Lee, Building & Woodworkers International.

The application of existing law, policy, and practice makes a difference and requires commitment to international standards at national level, and the inclusion of nationality as prohibited grounds of discrimination. The 1990 MWC took a big step forward in including nationality in standard non-discrimination clause. Some countries have started to include this in their national legislation. Thousands of initiatives have been undertaken by employers, TUs, NGOs, national governments that have explicitly targeted stopping discrimination and encouraging equality of treatment / integration

Mr. Gois discussed the Asian experience. He said that transformation can only come from changing ourselves. Thus, he called attention to the ways in which migrants see themselves and compared this to how they are projected. Sending countries in Asia project migrants as the “saviors” of the economy, or “modern day heroes” who leave their countries, families, and work in deplorable conditions. With this comes nothing else (no benefits, few special programs), and many don’t even have access to the basic assistance that they need. Contrasting this to the idea of the Olympic hero, he indicated that much more is owed to these people after 15-20 years in a destination country.

In the international community and in the human rights institutions of the UN, migrants are cast in different ways through categorizations. Such categories may be necessary in order to determine what kind of protection or assistance may be necessary (e.g. “refugees”, “IDPs”, “stateless persons”, “economic migrants,” etc.). At the ground level, if you ask migrants which category they would

place themselves in, they will tell you “whichever works” – i.e. they will define themselves by whatever category will allow them the highest degree of self-determination, safety, or benefits.

To facilitate outflows, many sending states have dedicated airports / airport corridors for migrant workers. Some have even gone so far as to provide uniforms for migrant workers for ease of identification. This is for migrants in the “low/unskilled” sectors, not for highly skilled migrants. This is to facilitate so-called “protection”, yet no one asks the migrants if they are comfortable with this. It makes them stand out. It might be administratively helpful, but the worldview/mindset it creates can be extremely undermining.

Mr. Gois ended by saying that when we say it’s about packaging, and making respect for rights “more palatable to society”, it is clear that we have moved far away from our mission. Even as human rights advocates, we don’t see that we are fighting for one of our own, and how in our fight sometimes that person becomes the “other.” **END**

Report of the Special Rapporteur on the human rights of migrants

François Crépeau presented his first thematic report to the Council on the afternoon of 21 June on the topic of the detention of migrants in an irregular situation. His intervention is summarized as follows:

The detention of migrants in an irregular situation is of paramount concern, given the growing tendency of states to detain migrants and the human rights impacts this has on them. The full report highlights laws, alternatives, and good practices. When the detention of migrants occurs, it must be necessary, reasonable, and proportional to protect against arbitrariness.

States use many reasons to justify detention. They tend to see irregular migration as national security problem. Detaining migrants should only ever be on the same grounds as the detention of any other individual. Irregular entry/stay are not crimes against persons or property. “Migrants are not criminals for their administrative status and should not be treated as such.”

The justification that detention acts as a deterrent to irregular migration is not justifiable, as there is no evidence to support the claim that it actually deters. Migrants in detention are often denied key procedural safeguards, such as translation, medical care, means of contacting family, the legal means to challenge detention, etc. The long-term administrative detention of migrants is frequent; the duration of detention should always be for the shortest time possible, and the decision to keep people detained should be subject to regular review. Migrants are often detained in unacceptable and overcrowded conditions. Their physical and mental health is often neglected. Migrants are detained in prisons, police stations, immigration detention centers, unofficial detention centers, military bases, private compounds, warehouses, airports, ships, among others. This should never be the case. If detained, migrants should be held in proper, dedicated detention centers – not prisons or other facilities – with strong civilian oversight and with credible mechanisms in place to receive complaints.

The above-mentioned mistreatment violates human rights and the integrity of the person, as enshrined in international law.

Vulnerable migrants, especially women and children, are often held in detention. Women are vulnerable to sexual violence, and as such should be separated from male detainees and guarded by women. The detention of pregnant women or nursing mothers should be avoided. Children should not be detained, except as a measure of last resort and when determined to be in the best interest of the child. They should be detained for the shortest time possible, and in conditions consistent with the Convention on the Rights of the Child. Families with children should not be detained. Trafficked persons should not be punished as a consequence of their situation. Other vulnerable migrants, including torture victims, unaccompanied older migrants, migrants with disabilities, those with HIV/AIDS, should only be detained as a measure of last resort, and should have access to adequate medical/psychological assistance. Stateless persons are often vulnerable to prolonged detention; they should not be barred from release on account of their status.

Alternative/non-custodial measures for detention should be established by law. To uphold the right to

liberty and security, states are obliged to look for alternatives. Such measures must be based on the principles of non-discrimination, necessity, and proportionality, and should not prevent individuals from exercising their other rights. Alternatives to detention should also not prevent unconditional release.

Alternatives can include: Registration of migrants with relevant authorities; Deposit of documents with relevant authorities; Release on bail/bond/surety; State management / supervised release; Electronic monitoring; Home curfew / house arrest; and Voluntary return.

All who are subject to alternatives need to have access to information about their rights/duties and the consequences of non-compliance. They must also have access to legal advice on regularization.

In conclusion, 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 favor 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. **END**

Read the SR's full report here: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/125/96/PDF/G1212596.pdf?OpenElement>

Freedom is the Rule. Detention is the Exception! MRI's statement at the HRC

MRI delivered its statement in response to the report of the Special Rapporteur on the human rights of migrants on 22 June 2012 at the 11th Plenary Meeting - 20th Session of the Human Rights Council. Mr. Bishnu Khatri (MFA) delivered the statement for MRI.

Following the Special Rapporteur's report, the statement strongly encouraged all states in the HRC to consider the following policy responses:



Mr. Bishnu Khatri of MFA represented the MRI delegation in the delivery of the statement on 22 June 2012 at the HRC.

Prioritize regularization over detention. To prevent arbitrary detentions, and to open avenues for irregular migrants to live, work, and access essential services, state policy should include mechanisms for the regularization of all irregular migrants, prior to or following their detention.

Abolish administrative detention for undocumented migrants. Irregular migration is not a criminal offense and should not be treated so. The prospect of detention and deportation renders migrants vulnerable and exploitable and undermines the realization of their human rights. States should abolish the practice of detaining undocumented migrants.

MRI is encouraged by the Special Rapporteur's recognition of the urgency of this issue in his first report. As a global network, MRI will continue its efforts to document rights violations that migrants suffer under existing detention regimes, and to encourage states to see freedom as the rule, and detention as the exception for migrants. **END**

Read the full statement here:

<http://www.mfasia.org/home/461-statement-of-migrants-rights-international-in-response-to-the-report-of-the-special-rapporteur-on-the-human-rights-of-migrants>

MFA in MRI network activities: AWID Forum, REMESO Conference on Labor and Migrants Rights, Global Hearing on Refugees and Migration

A number of international meetings and fora were held in the second quarter of 2012. Such gatherings were decisive in advancing migrants rights advocacy. MFA actively took part in these international discussion spaces together with Migrants Rights International (MRI). MRI is a global alliance of migrant associations and migrant rights, human rights, labor, religious, and other organizations which operate at the local, national, regional or international level. MRI seeks to advocate for the respect, protection and fulfillment of the full range of human rights of migrants around the world and to foster unity and inclusion of migrant voices at all levels of policy-making.

Domestic Workers Movement of India (NDWM) and a member of MFA.

At a two-day strategy meeting prior to the AWID Forum and a breakout session at the Forum, a Women and Global Migration Working Group was created to carry out joint campaigns and make migrant women visible in international policy-making arenas.

Women and Global Migration Working Group (WGMWG) participants at AWID Forum were the following: Espacio Sin Fronteras, (Brazil); Global Coalition on Migration; International Trade Union



From left: WGMWG in a public rally in Istanbul during the AWID Forum, April 2012; Sr. Lissy Joseph (NDWM/MFA) speaking at the strategy meeting prior to the AWID Forum; 2014 GFMD panel with Eva Akerman Borje, Swedish Ministry of Justice, John Bingham (ICMC), and William Gois (MFA), Norrköping, Sweden, 30 May 2012; Delegates at the Global Global Hearing on Refugees and Migration, 4-5 June 2012 at the Peace Palace in The Hague, the Netherlands. Photos courtesy of WGMWG and MRI.

Migrant Women need Allies in Women's Movements Worldwide

Updates by Carol Barton, United Methodist Women

On April 2012, a group of migrant women's organizations and allies were present at the Association for Women's Rights in Development—AWID Forum, in Istanbul, Turkey. They represented all regions and included migrant, trade union, economic justice and faith-based organizations. The group led a workshop at the Forum, "Building Alliances to Claim Migrant Women's Human Rights." They also participated in the forum plenary "Experiences of Resistance and Collective Organizing to Transform Economic Power, represented by Lissy Joseph of the National

Confederation (Geneva/Global); MFA (regional—Asia); MRI (Geneva/Global); National Network for Immigrant and Refugee Rights (USA); Platform for International Cooperation on Undocumented Migrants – PICUM (Brussels/ Global); Pan-African Network in Defense of Migrants Rights—PANiDMR (Africa); Public Services International (Geneva/Global); United Methodist Women (USA/Global); WIDE; and World YWCA. Activities of the newly formed WGMWG network will be up and coming soon! For further information on this network or to join the listserv, contact Cathi Tactaquin (NNIRR), ctactaquin@nnirr.org, or Carol Barton (United Methodist Women), cbarton@unitedmethodistwomen.org **END**

Sweden conference tackled migration, labor market restructuring and the role of civil society in global governance

On 30 May—1 June 2012, MRI joined leading social science researchers, trade union and civil society representatives in the Labor Rights as Human Rights conference organized by Swedish-based research Institute REMESO (Institute for Research on Immigration, Ethnicity, and Society) at Linköping University, in Norrköping, Sweden. The conference aimed to build bridges between research, policy and practice, providing a forum for dialogue among stakeholders in the labor migration discourse. William Gois of MFA was part of the MRI delegation and spoke at the panel on “Which Agenda for Civil Society Days in Sweden 2014?” **END**

Roadmap proposed at the Global Hearing on Refugees and Migration

Over 200 participants from local, national and regional governments, international bodies, intergovernmental organizations, the private sector, academia, faith communities, and civil society organizations convened in the Peace Palace in the Hague, Netherlands for the Global Hearing 2012 on Refugees and Migration. The Global Hearing held on 4-5 June 2012 was organized by The Hague Process on Refugees and Migration (THP). William Gois joined the MRI delegation as the MFA representative. THP hosted a Global Hearing ten years back, resulting in the 2002 ‘Declaration of The Hague on the Future of Refugee and Migration Policy.’ The 2012 process aimed to evaluate the trends, advances and challenges that have defined the field of refugees and migration in the last ten years.

Proposals made by the participants in the two day global hearing were summarized into a roadmap or ten key areas of action. They are: 1) changing perceptions; 2) promoting objective debate; 3) making the business case for migration; 4) an urban opportunity; 5) leadership; 6) stakeholder dialogue; 7) sustainability; 8) youth; 9) solidarity; and 10) filling protection gaps. The roadmap is intended to inform forthcoming debates and processes and be a catalyst for action. Visit the website to find more information: <http://www.thehagueprocess.org> **END**

Capacity building program *Continued from page 9*

The participants came from various parts of civil society, trade unions, national human rights institutions and international agencies from both countries of origin and destination.

There is a growing understanding of the need to support existing and emerging civil society advocacy efforts to address critical issues concerning migrant workers in the MENA region. This advocacy needs to be strengthened through building the knowledge and skills of advocates, experience sharing, and the development of practical and functional links among different stakeholders in migrants rights. This capacity building program proved to be an effective way of building knowledge and skills and lasting partnerships.



DTP participants came from various parts of civil society, trade unions, national human rights institutions and international agencies from both countries of origin and destination.

Besides building a stronger base on the understanding of international human rights and labor rights treaties, the program also gave the participants an opportunity to visit detention facilities and connect with their consulates and embassies in Lebanon to establish dialogues with concerned officials on the situations of migrant workers in the country.

Since 2009, DTP and MFA have worked together to include participants from the Middle East in its Asia regional programs. There are now alumni of DTP's courses in Jordan, Lebanon, Bahrain, Qatar and Saudi Arabia. **END**

MIGRANT FORUM IN ASIA MEMBERS



EAST ASIA

Hong Kong: Asian Migrant Center (AMC), Coalition for Migrants Rights (CMR), Indonesian Migrant Workers Union (IMWU); Japan: Solidarity Network with Migrants in Japan (SMJ); Korea: Joint Committee with Migrants in Korea (JCMK); Mongolia: Center for Human Rights and Development (CHRD); Taiwan: Hope Workers' Center (HWC); Hsinchu Catholic Diocese Migrants and Immigrants Service Center (HMISC)

SOUTHEAST ASIA

Burma: Federation of Trade Unions (FTUB); Cambodia: CARAM Cambodia, Cambodian Women for Peace and Development (CWPD), Legal Support for Children and Women (LSCW); Indonesia: Center for Indonesian Migrant Workers (CIMW), Jarnas Pekabumi, Konsorsium Pembela Buruh Migran Indonesia (KOPBUMI), Migrant Care, Seri Buruh Migran Indonesia (SBMI), Solidaritas Perempuan; Malaysia: Tenaga nita; Philippines: Atikha Overseas Workers and Communities Initiative, Inc., Batis Center for Women, Inc., Center for Migrants Advocacy (CMA), Kanlungan Center Foundation, Inc., Kapisanan ng mga Kamag-anakan ng mga Migranteng Manggagawang Pilipino (KAKAMMPI), Unlad Kabayan Migrant Services Foundation, Inc.; Singapore: Humanitarian Organization for Migration Economics (HOME), St. Francis Workers' Center, Transient Workers Count Too (TWC2); Thailand: Human Rights and Development Foundation (HRDF)

SOUTH ASIA

Bangladesh: Ain O Salish Kendra (ASK), Association for Community Development (ACD), Refugee and Migratory Movements Research Unit (RMMRU), WARBE Development Foundation; India: Center for Education and Communication (CEC), Center for Indian Migrant Studies (CIMS), Migrant Forum India (MFI), Migrants Rights Council, National Centre for Labor; Nepal: All Nepal Women's Association (ANWA), POURAKHI, Women Rehabilitation Center (WOREC), Pravasi Nepali Coordination Committee (PNCC); Youth Action Nepal (YOAC); Sri Lanka: Action Network for Migrant Workers (ACTFORM), Migrant Services Center (MSC), Women and Media Collective (WMC)

WEST ASIA

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