

A CALL FOR A HUMAN RIGHTS-

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B. HUMAN RIGHTS AND ROOT CAUSES OF MIGRATION

There is a strong consensus within civil society, including migrant organizations, non-governmental organizations and trade unions, on the need to address the root causes of migration, including the violation of human rights (United Nations, 2006b). These violations take the form of violent conflict, racism and other forms of discrimination that force people to emigrate. In addition, the growing economic disparity between rich and poor countries, and between the rich and poor within countries, has also led to a sharp increase in the number of international migrants worldwide (United Nations, 2006b). In this discussion it is essential to include the question of workers' responsibilities⁴ in addition to rights, and also to distinguish between political refugees, victims of violence and overt discrimination on the one hand and economic migrants on the other. At the same time, one has to recognize that migration born of economic necessity cannot be viewed as purely voluntar

- (b) Everyone, without any discrimination, has the right to equal pay for equal work;
- (c) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection;
- (d) Everyone has the right to form and to join trade unions for the protection of his interests.⁶

Furthermore, the conventions of the ILO, and in particular of the ILO Declaration on Fundamental Principles and Rights at Work, which clearly expresses the obligations of all ILO member States, include the following key elements:

All member States, even if they have not ratified the conventions in question, have an obligation arising from the very fact of membership in the ILO to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those conventions, namely:

- (a) Freedom of association and the effective recognition of the right to collective bargaining;
- (b) The elimination of all forms of forced or compulsory labour;
- (c) The effective abolition of child labour;
- (d) The elimination of discrimination in respect of employment and occupation.⁷

The necessity to fully respect the rights in particular of the most vulnerable migrants must also be emphasized. Policy initiatives need to address specifically the challenges faced by women and child migrants, who are frequently the objects of human trafficking, sexual and other exploitation and violence. Family unification and the well-being of the family unit must be a cornerstone of migration policy.⁸ It is crucial that countries institute effective formal and informal measures to prevent abuse of, and violence against, women and child migrants, especially in the informal sector and domestic work.

The current financial crisis is likely to contribute to an increase in irregular migration. This has been exacerbated by a failure of receiving countries not only to recognize their own role in this trend, but also in some cases, to make available an adequate number of work visas to fulfill their own stated labour needs. The resulting death and injury caused by dangerous border-crossings is a humanitarian crisis that must be addressed in a way that does not place blame on the migrants and which provides for opportunities to cross borders in a safe way. While smuggling and human trafficking are distinct phenomena, both have at their core the sale and slavery of persons. In addition, the rights of irregular migrants must be respected. As cited previously, international human rights and labour law do not distinguish between categories of people: human rights are universal.

Increasingly, countries of the more developed regions are relying on temporary worker programmes to fulfill their labour requirements. This is a disturbing trend, in that temporary worker programmes are generally exploitative of workers and are designed for maximum economic benefit to employers while minimizing any social contract that receiving countries must make with participating workers. Such programmes lock migrants into seasonal migrant status which often violate fundamental human rights of workers —such as equal access to the courts. While workers in the less developed regions freely register for such programmes, it is a mistake to consider such programmes to be mutually

beneficial when these workers often have no other choice but register so that they can obtain work. In order to respect the international requirements as embodied in international labour law and human rights law, temporary worker programmes need to be fundamentally reformed to: (a) grant workers full rights under law equal to all other workers; (b) provide full access to courts and other systems of redress of grievances; (c) not tie employment of the worker to one sole employer, and (d) provide for a path to long term residency and citizenship for those workers who desire it.

The strict enforcement practices by receiving countries are an additional example of the increasing trend to punish and place the blame on migrants who have crossed borders out of economic necessity and who also make a valuable contribution to the economies of receiving countries. Workplace raids, lengthy detentions that fail to distinguish between irregular and other foreigners who have committed a crime, lack of consular access, inadequate medical care for detained migrants, the separation of parents from young children and excessive prison terms all represent an increasing criminalization of migrant workers and their families, and must be reversed.⁹

NOTES

¹ See http://government.gfmd2008.org/index2.php?option=com_docman&task=doc_view&gid=132&Itemid=45 (accessed 24 April 2009).

² See <http://government.gfmd2008.org/roundtable1.html> (accessed 13 January 2009).

³ See Universal Declaration of Human Rights, Preamble, paragraph 1.

⁴ See Universal Declaration of Human Rights, Article 29 (1): “Everyone has duties to the community in which alone the free and full expression of his personality is possible.”

⁵ See <http://government.gfmd2008.org/roundtable1.html> (accessed 13 January 2009).

United Nations (2006b). *Summary of informal interactive hearings of the General Assembly with representatives of non-governmental organizations, civil society organizations and the private sector*. Note by the President of the General Assembly. A/61/187.

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