



## **Comments to the Report of the UN Secretary General's Report to the 60<sup>th</sup> Session of the UN General Assembly on agenda item 54 (c): International Migration and Development**

1. Migrants Rights International (MRI)—a global civil society network of migrant workers associations and unions, faith-based groups, labor, community-based organizations and non-governmental organizations promoting the human rights of migrants—submits this written comment to the report of the UN Secretary General in view of the UN General Assembly High Level Dialogue on Migration and Development on 14-15 September 2006. The comment refers to Segment one of the informal interactive hearings on 12 July 2006 and the September High Level Dialogue, i.e. *"Promoting a comprehensive rights-based approach to the international migration, and ensuring respect for and protection of the human rights of all migrants and members of their families."*

### **1990 UN Migrant Workers Convention**

2. MRI welcomes the effort of the UN Secretary General and the General Assembly to highlight the issue of migration and bringing it to the forefront of discussions by the international community. We welcome the emphasis made in the Report on the need to protect the human rights of migrants and the reference made to the UN international human rights instruments and Conventions of the International Labour Organization as "constituting the core of the international normative framework on international migration" (para. 283). Particular mention is made of the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as the "most comprehensive international treaty dealing with the rights of migrant workers." Such reiteration should be constantly made by the UN Secretary General so as to continuously remind States of their obligation to protect, promote and fulfil migrants' human rights and to join other States in ratifying the said Convention, and for those States that have already ratified, to implement the Convention fully and effectively.

### **Global Consultative Forum and Civil Society Participation**

3. In exploring how the United Nations can better serve its Member States by facilitating intergovernmental cooperation on international migration issues, the UN Secretary General's Report (hereafter referred to as the "Report") suggests the creation of a "consultative forum" or "global consultative process" that would offer Governments "a venue to discuss issues related to international migration and development in a systematic and comprehensive way. Such forum or process would complement and add value to the regional consultative processes on migration" (para. 40).
4. MRI supports the idea of an intergovernmental cooperation such as a "forum" or "consultative process," but is seriously concerned about the absence of participation by civil society, trade unions, and migrants themselves in this process. We are important partners and stakeholders in this issue of international migration and development. MRI's members are migrant workers themselves: the ones that are and will be directly affected by these intergovernmental decisions. Therefore, we are deeply disturbed that the UN Secretary General wrote in para. 21 of his Report, with reference to the consultative forum:

"It would (also) offer an opportunity for Governments to engage, *when they deem it desirable and necessary*, with relevant stakeholders, who bear valuable knowledge and experience, including non-governmental organizations (NGOs), experts and migrant organizations." (italics added)

5. We underscore this conditional phrase -- "*when they deem it desirable and necessary*" -- as a threat to genuine migrant civil society participation. Many migration policies and regulations have failed because governments refused to acknowledge or to listen to the voices of migrants and civil society organizations working with migrants. Often in the past, the failure of States to consult with migrant civil society has led to the creation of incoherent, fragmented, highly bureaucratic and non-transparent migration policies that in turn have led, intentionally or unintentionally, to violations of migrants' human rights.
6. It is now time for Governments and the international community to acknowledge the value of migrant civil society organizations in shaping migration policy and take the necessary steps to institutionalize their genuine participation in these processes.
7. MRI, with its member and partner organizations worldwide which include grassroots-based organizations and migrants themselves, offers its willingness to participate in such global consultative forum in order to bring in the voice and experience of the migrants and propose alternative solutions built on the foundation of human rights.

#### **MRI Framework**

8. As MRI, we promote the rights-based approach to international migration, based on the principles of human rights *protection, promotion and fulfilment*. This is a framework that:
  - recognizes inequalities between women and men in the migration process thereby calling for the promotion of gender-sensitive migration policies; and
  - acknowledges the current imbalances in economic and trade relations between developing and developed countries, dictated by strong corporate interests in the North and a neo-liberal economic agenda that intensifies poverty, destroys the environment, depletes farmlands, heightens conflict and armed struggle, strips indigenous peoples of their ancestral domain and identity, and creates human suffering -- all of which constitute **the** real root cause of migration.

#### **Examining Root Causes and Consequences of Migration within the Frame of Human Rights**

9. MRI believes that an international agenda to discuss migration and its relationship with development is a welcome though already long delayed initiative. However, we are deeply disturbed by the arguments and proposals presented in the Report. These are strongly concentrated on labor mobility and on enhancing the positive economic benefits of migration, while lacking a firm analysis of the real root causes of why people migrate and how these are linked to the lack of access to human rights, especially economic, social and cultural rights. Among these rights are the right to decent employment, equitable wages and proper working conditions, trade union rights, access to basic public services and social security.
10. The Report, while recognizing the centrality of human rights, only refers to the obligations of the States *to protect* the human rights of migrants, particularly in the receiving countries. However, MRI wishes to stress that States also have the additional obligation *to promote and fulfil* the human rights of every person under its jurisdiction, which includes all migrants regardless of status, asylum seekers and refugees. To protect, promote and fulfil are the core obligations of

States to human rights, as provided for in the international human rights instruments. Implementation of these human rights obligations is essential to ensure migrants' well-being and integration in the host country, and consequently contributing to development.

### **The Human Rights of Undocumented Migrants**

11. MRI places special attention to the most vulnerable groups of migrants, which include women migrant domestic workers and undocumented migrants. MRI promotes and defends the human rights of these migrants through monitoring and denouncing cases of violations, conducting policy advocacy, establishing migrants' access to redress mechanisms, promoting grassroots organizing and capacity building among migrants, and providing direct assistance.
12. Working directly with vulnerable migrants, MRI views that the Report lacks systematic analysis of the reasons why irregular migration occurs on the scale it does across the world. Likewise, there is the lack of reliable, sex-disaggregated data to fully comprehend the scale of international migration, particularly the number of migrants going through irregular channels. In MRI's experience, irregular migration increases when national immigration policies operate in excessively bureaucratic ways, usually considering only the interests of the host country and excluding those of the migrant workers. Insensitive to the migrants' human rights situation, States continue to impose stringent "stop-gap" solutions or fragmented immigration policies that do not solve the problem but only exacerbate the further exploitation of migrants and place them in dangerous and clandestine situations.
13. MRI supports the regularisation of undocumented migrants as mentioned in para. 147 of the Report. However, we believe that regularization should go even further towards establishing comprehensive solutions that incorporate migrant worker rights and perspectives as well as allowing the social space in which immigrants can prosper and achieve their aspirations.

### **Promoting the Rights-Based Approach to International Migration**

14. MRI notes with concern that throughout the Report, managing migration and the maximization of the economic benefits of labour mobility and remittances seem to take primacy over human rights considerations. The establishment of a new framework of "co-development" defined as "the coordinated or concerted improvement of economic and social conditions at both origin and destination countries based on the complementarities between the two" (para. 109) could undermine the rights-based framework to international migration if not properly defined within the frame of human rights.

With reference to co-development, para. 109 of the Report states:

"Migration plays a positive role by providing the workers to satisfy the labor demand in advanced economies and in the dynamic developing economies while at the same time reducing unemployment and underemployment in countries of origin and in the process, generating remittances, savings and know-how for the benefit of the latter."

15. MRI cautions Governments and the international community that the overemphasis on the labor market economics of migration creates the risk of "commodifying" the migrant workers, i.e. treating them as mere factors of production and not as human beings with basic human rights.

16. Finally, we note with regret that despite being a document of the UN Secretary General, the Report itself does not make full reference to or utilize the contributions of existing United Nations human rights mechanisms and procedures in order to further enhance the human rights perspective in addressing migration and development. The UN human rights treaty bodies and their general comments, the UN Special Rapporteur on the Human Rights of Migrants, the UN Commission on Human Rights and the Durban Declaration and Program of Action of the 2001 World Conference Against Racism all offer sound human rights framework to the treatment of migration and migrant workers. The Report, as befits its status as a report from the UN Secretary General, could have done better by making full references to these instruments and mechanisms and using these instruments as the basic normative and analytical framework for its treatment and analysis of the issue of migration and development.

Submitted by:

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