



## **Statement of the 2011 Civil Society Days**

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### **I. Introduction**

Excellencies, ladies and gentlemen, fellow migrants and colleagues,

Human mobility is happening, is unstoppable, and affects us all. We all know as well that we need to do better at responding to this global phenomenon. When are we going to catch up with this? Which kind of change do we want—change we manage or change we cannot?

Aiming to better understand and work with you to improve responses to global migration, 186 civil society delegates from 61 countries, including 73 migrants—the largest number of diaspora and migrant organizations participating in the GFMD to date—met in Geneva this week, along with 160 observers, guests and governments in the fifth Civil Society Days of the Global Forum on Migration and Development. The focus of our two days of deliberation was Labour Migration, Development Alternatives to Migration, and the Protection of Migrant Workers and their Families—very similar to your agenda.

We gather in Geneva just a week before the International Organization for Migration and the UN High Commissioner for Refugees both mark their 60<sup>th</sup> anniversary. These organizations came into being as a direct response by governments and peoples to humanitarian and protection urgencies of their day. Delegates see similar urgency in the experience of millions of migrants and their families worldwide, and wonder: where are the world's leaders today? Leadership gaps are especially conspicuous at national levels, where we have witnessed the startling growth in xenophobic political and media rhetoric, burden shifting rather than burden sharing in responding to the exodus from North Africa, and the failure of many states to implement international and regional obligations to protect migrants, or to enforce their own laws and policies in that regard.

Civil society delegates also asked themselves whether they too, were really doing enough to combat these developments. Delegates stressed the importance of national and local civil society organizations doing more to work with their governments, pointing to many examples of positive results achieved in direct collaboration with municipal and local leaders, such as access to education and essential health services for migrant children.

## **II. Global governance and rights**

Civil society took up the question of global governance of migration. Although there is little consensus as yet as to the form that global governance might take, civil society agrees that whatever system develops must have an indisputable basis in normative frameworks. Such norms exist in the UN Migrant Workers Convention—not an exception but rather one of the nine *core* international human rights treaties. The reticence of developed countries in particular to ratify the UN Migrant Workers Convention is disingenuous to their own often better traditions of appreciating rights, and unhelpful with respect to other countries that need to ratify and respect the Convention.

Additional normative tools also exist: Delegates specifically referenced ILO Convention 189 on domestic workers, which must be ratified by all countries and implemented, with special attention to the most vulnerable groups: migrants, undocumented workers, those working for diplomats, and au pairs. The ILO Multilateral Framework for Labour Migration, including its chapters on decent work, on means for international cooperation on labour migration, on effective management of labour migration, protection of migrant workers, and migration and development, together with its extensive presentation of best practices, provides an excellent framework as well.

Civil society looks especially to the International Labour Organization for a new energy and new commitments to organizing practical and rights-based approaches to labour migration—for the long overdue repair of labour migration itself and not just for development, and for the protection of native as well as migrant workers and their families. Civil society delegates emphasized their respect for the standards-setting and tripartite approach of the ILO, but implored much greater engagement by the ILO in matters of protection, including stronger monitoring of compliance by states with their obligations under international labour conventions.

## **III. Re-Imagining Labour Mobility**

For the first time in the five years of the GFMD, civil society turned its attention expressly to the dynamics of the labour market and its implications for migration.

Given the evidence of pervasive exploitation in the process of labour recruitment, standards must be clarified and enforced for recruiters and employers. Some of the worst of the recruitment and placement abuses occur within the laws of some countries or when authorities consciously disregard their own laws. Civil Society believes, however, that, in concert with governments, the ILO and other international organizations, and with particular engagement of private sector actors of goodwill, there is genuine prospect in significantly reducing the travesty of recruitment abuses in the near term.

Clearly there is insufficient data for effective labour matching by government, and labour market analysis is urgently needed to better understand short and long-term needs, recognizing that these cannot always be predicted accurately. The mismatch in many jurisdictions between labour demand and supply can result in high unemployment of local workers, even as employers seek foreign workers. More research is needed on how governments and employers can recognize the value of skills and credentials acquired abroad and how countries can establish mutual recognition schemes.

Not only labour but education and training should also be „matched’. It is important to remediate disconnects between what employers and investors need and the education and training programmes that exist. Education systems in countries of origin should align education and training needed in the labour market, with appropriate focus on vocational and technical training, especially for middle skill levels.

Civil society reiterates that “circular and temporary migration” is not a win-win-win form of migration. In fact, it can result in triple losses. Migrant workers and their families are significant losers, as are many countries of origin that lose skilled workers, such as teachers and health professionals. Such policies can also increase exploitation of migrants in destination countries, especially if migrants are tied to specific employers during the duration of their visas.

Delegates reiterated points made in previous CSD’s, that circular and temporary labour migration schemes should not replace permanent employment, and should include pathways to permanent residence status and citizenship. We underscored the need to focus on development needs of countries of origin, including through financing for development commitments made by developed countries, so that labour migration will not be necessary for many workers.

#### **IV. Family migration**

Also for the first time in the Global Forum process, civil society delegates picked up the issue of practical protection for families in both destination and origin countries. Many migrant workers leave their families, including children left behind, often in contexts where there are no possibilities of visiting or reuniting with their families. These

restrictions generate a series of negative implications on migrant rights to family life. Family fragmentation impacts the whole family; fathers, mothers, children, grandparents are affected psychologically and emotionally by family separation.

Civil society calls on governments to ensure that the right to family unity and reunification and the wellbeing of the family are the cornerstones of migration policies. The right of children to parental care is fundamental. Support systems for transnational families to mitigate the hardship ensured by migration must be implemented, including child protection systems and access to education, services, psychological support, health insurance and investment.

## **V. Irregular migration**

While irregular migrants are irrefutably covered under all of the human rights instruments that apply to every person, they are widely treated as rights-less in the gap between international legal obligations and practice on the ground. Civil society confronts this gap every day in the abject suffering it causes to migrants and their families.

Civil society reaffirms our view that governments must stop the criminalization of migrants with irregular status. Lack of status does not strip migrant of rights, or a state's basic obligations. Under international human rights law, all migrants, irrespective of immigration status, have the right to health, education for children, labour protections, justice for victims of crime and violence, to name some of the issues of most importance to migrants. Governments should remove legal barriers that prevent irregular migrants from exercising these rights, for example, by ensuring that information collected by service providers is not shared with immigration enforcement agencies. They should also ensure effective enforcement of labour rights and enshrine mechanisms in national legislation that guarantee access to redress for all migrants, regardless of immigration status.

Reducing irregular migration requires attention to the institutions and individuals that facilitate and benefit from it. These include employers that exploit irregular migrants; consumers that enjoy inexpensive goods and services, without regard to the wages and working conditions of those who produce them; the human smugglers who profit from migrants' desperation to reach their destinations; and traffickers who coerce or deceive migrants solely to exploit their labour.

Violence against migrants at borders, in transit and in destination countries is a growing problem that demands attention from governments. We urge states and international agencies to join us in urgently putting in place consistent responses of assistance and protection to those victims, in particular women and children. Improved mechanisms are needed to ensure that migrants are rescued at sea when such rescue is needed, and

differentiated upon arrival for the specific protection to which they are entitled under international, regional and national law. UNHCR's 10 Point Plan of Action for refugee Protection and Mixed Migration is a useful framework in this direction.

Corruption of public officials in countries of origin, transit and destination remains an important contributing factor in irregular migration and in violations of the rights of migrants. Governments should ensure that law enforcement officials take seriously their responsibility to protect migrants, including by instituting penalties against officials who demand bribes and commit acts of violence against migrants.

Civil society urges governments to reallocate resources from border controls to enforcement of labour standards to protect all workers and reduce the economic incentives to hire, and exploit, irregular migrants. Recognizing that some employers attempt to escape penalties by subcontracting for their labour, governments should institute mechanisms to ensure that the businesses that ultimately benefit from such practices are held liable along with the employer of record.

Border enforcement policies, including arrest, detention and deportation of irregular migrants, continue to be used despite evidence that they do not deter irregular migration and are costly in financial and human terms. Indeed, there are many practical solutions within reach. Civil society proposes public-private partnerships to implement community-based alternatives to detention for irregular migrants, which have been found to be cheaper, effective and more humane.<sup>1</sup>

States should not offload their responsibilities to private companies that profit by the detention of irregular migrants. These companies are often unregulated and place detainees at risk of human rights abuses.

Evidence is overwhelming that irregular migration is fuelled by an absence of regular channels for labour migration and family reunification. Regularization can be an effective mechanism to reduce irregular migration, especially when such programmes accompany reforms that provide regular migration channels that address genuine labour market, family reunification and protection needs.<sup>2</sup> These programmes bring irregular migrants out of the shadows and enable them to contribute fully to their host countries.

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<sup>1</sup> Such programs include screening and case management systems that determine the most appropriate alternative; advise migrants as to their rights and responsibilities, and involve community-based organizations. As we have previously recommended, especially vulnerable groups, including children, pregnant and lactating women, trafficking victims, survivors of torture, abuse and trauma, the elderly, disabled and persons with serious health conditions, should never be placed in detention facilities.

<sup>2</sup> Regularization programs need to balance the issues and concerns of both irregular migrants and States. They should deal comprehensively with the issue, in a manner that is beneficial for all stakeholders, and be well publicized and financially accessible.

Media play an important role in framing public opinion about irregular migration. Although some media bring needed attention to the exploitation of irregular migrants, others misrepresent the causes and impacts of irregular migration. Civil society should launch public information campaigns to counter misrepresentations, including the widespread use of the term „illegal immigrants.’ Civil society should also implement awareness raising campaigns to help ensure that irregular migrants know and are able to exercise their rights and responsibilities. Irregular migrants often do not know their rights and sometimes are unable to obtain relief from deportation even when they are eligible for such programs.

## **VI. Human and economic development**

Civil society welcomed the opportunity for a more in-depth discussion of the “development” aspect of migration and development. Certain trade, finance and macro-economic policies have undermined development (including jobs, services and food security), caused net outflows of capital from developing nations, and created the necessity for millions to migrate. A rights-based approach to development which addresses economic and social rights, including decent work and essential public services, is necessary to make the “right to remain” possible. While they clearly can contribute to development, migration and remittances are not in and of themselves a development strategy. They cannot replace commitments made by governments to the Right to Development; 0.7 % of GDP for development aid; and the Millennium Development Goals--particularly Goal 8 of the MDGs on partnership for development and financing development. New challenges like climate change and land grabbing (by governments and transnational corporations) and economic crises reduce options for people to build livelihoods in their countries.

The impact of lost jobs, cuts in public services and climate change have both race and gender dimensions. When unions organize for decent work, particularly strong public services, both service workers and the general public have more opportunities to earn decent wages and therefore stay in the country. Unions need to create regional networks within sectors for effective advocacy, as well as alliances between migrant sending and receiving countries. Often, lack of policy coherence between ministries undermines workers and farmers’ livelihoods, forcing them to migrate. Civil society calls for effective policy coherence, including linking urban and rural areas.

Civil society groups criticized development programmes and assistance that focus more on efforts to repatriate irregular migrants than real, broad, development. In linkages between migrant diasporas and local sending communities, it is important to involve local stakeholders, create trust relationships, remove red tape, speed up decisions on project funding, and encourage direct partnership between diasporas and the private sector. Local, state and national governments should adjust the legal and financial



framework to promote migrants as entrepreneurs, provide access to credit and skill development and to match employment needs. Those funding and implementing local projects should consider indicators of success beyond profitability. Small and medium enterprises play a critical role in job creation and should be promoted. Migrant diaspora organisations should cooperate with academia on policy development and then work with government.

## **VII. Migrant and Diaspora Empowerment**

With the right tools, migrants will be empowered to defend their own rights. Migrants are empowered through information, education, and capacity-building, including respect for the creation of migrant associations and forming unions.

Systems for adequate dissemination of information as well as education in a broad sense, e.g., including local language should be set up. Migrants should be organised through capacity-building programmes to create representative associations or form unions. Rights awareness raising campaigns and community organising models have proved to be effective approaches to empower migrant workers. Migrants organisations could reach out to media to raise awareness among the public and create media programmes that give them a voice e.g. through the creation of migrants' media such as radio stations. This facilitates the promoting and defending of their rights.

Migrants' participation in the development of policy should be guaranteed. Governments have the responsibility to promote and practice dialogue with civil society; therefore there should be a space for consultation. Networks could be created at regional level for advocacy and dialogue with authorities.

Transnational partnerships of unions or migrant worker associations and regional alliances between countries of origin and destination have proved effective as well as alliances between civil society partners of different background on national and local level. Since migrant workers' right and ability to organise themselves is fundamental to have their voices heard, the involvement of trade unions should be encouraged and freedom of association guaranteed for all. A growing body of research makes clear that migrant workers whose rights are respected will in turn have more access to decent work, thereby increasing their capacity to have a positive impact in their home communities.

States need to institutionalize their relationships to their migrants and broader Diasporas to ensure the latter's contribution to national development programme of the source countries. Such contributions may go well beyond remittances and include knowledge and skills sharing. A structure for constructive dialogue with migrants and the Diaspora may also be created, especially to engage with them, the private sector

and governments to foster alternative financing for SME development and the creation of decent jobs. There is also the need for further research to collect evidence and collate information about how migrants and the Diaspora contribute to the local and national economy and development.

### **VIII. Future of the Forum and the road to the High Level Dialogue 2013**

Civil society had keen interest in the Future of the Global Forum on Migration and Development, the agenda, format and outcomes of the UN High Level Dialogue on Migration and Development, and the linkage between the two processes. The UN High Level Dialogue is a pivotal event and civil society is eager to play an integral role in the preparations and outcome. At the same time, they affirmed that the primary concern is the future of migrants, more than the future of the forum.

The Global Forum, including the Civil Society Days, is a process, not an event. Delegates affirm the increasing role that civil society has played in partnering with governments to date and seek increased opportunity for dialogue through ongoing mechanisms to integrate both deliberations. We seek a partnership with governments throughout the year.

Civil society agreed to formulate proposals on potential modalities for future governance. We welcome opportunities to consider this future together with governments in assessing modalities for engagement between civil society and government in preparation for the 2013 High Level Dialogue.



## **ANNEX: Affirmation of strong Civil Society convergence on prior GFMD recommendations to States**

Civil Society delegates to the 2011 GFMD were asked at the outset of each working session to consider, and to re-affirm, if so desired, the principal recommendations that Civil Society made at prior GFMD meetings, relevant to the four themes of the Civil Society programme this year.

On the theme of **“Rights-based Policy-making for the Benefit of Migrant-Workers and their Families”**, Civil Society affirmed the following recommendations from prior GFMDs:

1. for governments to ratify, implement and enforce the UN Migrant Workers Convention, as well as ILO conventions 97, 143 and the new Domestic Workers Convention (189);
2. for the observance of all workers’ human rights and labour rights regardless of their migration status, including non-discrimination (i.e., the same treatment, working conditions, and wages as comparable native workers), freedom of association and access to social security benefits, health care, education, family unity and legal remedies and mechanisms for enforcing rights.
3. for governments to reaffirm and reinforce family rights, in particular the right to family unity, by easing access to visas, visitation and ensuring pathways to reunification.

On the theme of **“Improving Protection of Migrants Moving or Working in Irregular Circumstances”**, Civil Society affirmed the following recommendations from prior GFMDs :

1. that governments stop the criminalization of migrants with irregular status, and pursue alternatives to detention while never placing in detention pregnant or lactating women, children, survivors of torture, abuse and trauma, elderly, disabled or persons with serious health conditions, or other vulnerable groups.
2. for more, fair and transparent regularization mechanisms to resolve the situation and vulnerabilities of migrants with irregular status
3. for regular and safe migration channels for low-wage workers, including for domestic workers, in order to prevent migrants from getting caught up in vulnerable irregular work situations.
4. for recognition by government that freedom of association applies to all workers, including migrants irrespective of their status.

On the theme of “**Re-imagining Labour Mobility**”, Civil Society affirmed the following recommendations from prior GFMDs:

1. for governments to create more regular, safe and decent channels for labour migration and decent work grounded in the reality of workforce shortages.
2. for better regulation and monitoring of recruitment and employment practices in order to protect migrants from human rights abuses and exploitation and to reduce the transaction cost of migration for migrants.
3. for temporary and circular labour migration programmes and policies to ensure equal access to workers’ rights and entitlements, including freedom of association, equal payment, social security and the right to family unity.
4. for circular/temporary labour migration schemes only in response to temporary gaps in the labour market, including to seasonal demand for labour, rather than to replace permanent employment. Pathways to permanent residence status and citizenship need to be provided.
5. for governments to reform migration programmes and policies so as to facilitate circularity and flexibility for workers with all levels of skill, to include the portability of rights and entitlements, multi-entry and multi-year visa, and to detach admission and stay from specific employers.

On the theme of “**Investing in Development Alternatives to Migration**”, Civil Society affirmed the following recommendations from prior GFMDs:

6. that governments have primary responsibility for sustainable and human development, and should work with civil society to create public policies that reduce the necessity and expand the choice to migrate
7. that governments assess the impact of trade policies, agricultural subsidies, and unsustainable development programs that displace large numbers of people from their homes and livelihoods.
8. that governments both in countries of origin and destination, foundations and other donors include diaspora and migrant organizations in development policy formulation and implementation and to increase the resources available for capacity building of diaspora and migrant organizations, focusing on such areas as financial literacy, development of organizational skills, advocacy and education.