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Migrants' rights advocates reject the State formulation of migrant workers as "illegal". New York, 2006.

IRREGULAR MIGRATION IN ASIA

Modern movement of persons takes place in a globalized world, one with freer flows of capital, production and commodities. While the neoliberal agenda of the World Trade Organization (WTO) would remove barriers to free trade and increase these flows even further, the trend has been to place greater restrictions on the movement of people.¹ In the post-9/11 world, nation states place a premium on national security; xenophobia or suppression of minorities can be masked as "anti-terrorist" activities, paternalistic policies towards women deemed anti-trafficking efforts, and systematic economic exploitation of workers termed "trainee systems" in a managed migration context. So while people have always migrated, whether in search of better circumstances or as a matter of survival,

in the 21st century, it is in this complex environment that "irregular" migrants move.

The terms "illegal", "undocumented" and "irregular" have all been used to describe migrant workers who do not have a valid visa, work permit or other necessary documents required to work in the host country. "Irregular" is the current term in use by migrants' rights advocates, as "illegal" places the interests of the state over the human right of mobility to victimize migrant workers as criminals in the legal sense, while "undocumented" does not reflect all of the issues within the migration flow. Irregular migrants include those who were trafficked or smuggled, as well as workers who entered the host country with a valid visa or work permit and then became irregular upon leaving their place of employment. Irregular migrant populations may include refugees or asylum-seekers, as well. Several million of the estimated 25-30 million migrant workers in Asia are irregular migrants.

The exact numbers of irregular migrants are per se difficult to keep track of, although some island states such as Japan, South Korea and Taiwan monitor entries and exits. In Taiwan, which hosts large numbers of Thai, Filipino, Vietnamese and Indonesian workers, there were 16,593 irregular workers in 2004, and 21,679 in 2005, according to government records on the number of absconding workers. The Japan Statistical Yearbook 2007 noted 69,871 irregular Asian migrant workers in 2004 through its entry and exit records. In South Korea, the government recorded 180,792 migrant workers in 2005, coming from China, Bangladesh, the Philippines and Thailand.

Other countries with porous borders can be more difficult to estimate. Estimates of irregular migrants in Malaysia vary widely, from almost 2 million to 5 million migrant workers. During Thailand's various registration procedures – through which it attempts to regularize migrant workers already in the country – there appears to be slightly over 1 million migrants working there, coming from Burma, Cambodia and Lao PDR, all of whom were undocumented prior to the registration system. Most countries in Asia have certain populations of irregular migrants, whether large or small.

The phenomenon or “problem” of irregular migration is in part a by-product of managed migration systems. Government use of some form of migration management framework is almost ubiquitous in the modern world; there are many reasons why governments try to control migration. Migration can involve political, socio-cultural, economic, labor and health issues, thus States attempt to control migration in hopes of managing such factors. This had led to a number of ways in which these migration management attempts have not only completely failed their stated purpose, to reduce irregular migration, but also led to widespread human rights violations.

Despite the fact that migrant populations make the culture of the host country more

vibrant, resilient and diverse, xenophobia and prejudices can counter such positive impacts. The entry of foreigners into a community can trigger issues of cultural assimilation, which may include language barriers, different religious practices, cultural norms, eating habits, medical practices, and the like. In a number of countries, migrants are easily made scapegoats for social ills, thus leading to demands that the government “control” the situation. In Japan, for example, numerous media reports are regularly published which generate fear about crimes committed by migrant workers; in Thailand, xenophobia led to draconian laws preventing migrants from leaving their workplace from 8 p.m. to 6 a.m. and from talking on mobile phones. This situation has been exacerbated by the post-9/11 obsession with terrorism. Many states have used this fear to tighten policies on migration and attempt to restrict migrants as much as possible.

Despite mounting evidence that migrant workers do those jobs that locals refuse to do – termed “3D” jobs, or dirty, dangerous and disliked – fears continue that migrant workers take jobs from locals. Governments thus prefer to have a readily available, yet also readily disposable, labor force in the country, whether through quotas or other migration management procedures. The inter-relationship between migrant workers and locals is not that simple, however, as can be seen in Gulf countries which have implemented “localization” policies as a response to high local unemployment rates. It has been reported that despite such policies, which reserve specified jobs or sectors for locals, the intended impacts have not been realized. In Bahrain, for example, although the government offered 11,000 new jobs to Bahrainis in 2004, the local unemployment rose rather than dropped. Immediately following the 2005 deportations of irregular migrants in Malaysia, there were numerous media reports of industry delays, loss of profits, and unfilled



Photo courtesy of JCMK

Migrant workers impacted by South Korea's crackdown on irregular migrants in 2005 protest that they are not criminals. Seoul, 2005.

vacancies; local workers did not fill these gaps, rather, the government rushed to sign MOUs with a number of sending countries in order to import more workers as quickly as possible.

Governments themselves are in a delicate position, often under pressure from both sides. The powerful corporate/business lobby puts a strong pressure on the government to facilitate cheap, easily accessible and controllable migrant labor. Irregular workers can be in higher demand by some employers, because they will not have to pay requisite levies, follow protective procedures, or comply with minimum wage laws. They are also more easily controlled; it is a routine practice in many countries for employers to simply report to the police any irregular migrants who complain about abusive practices. There is often an outcry raised whenever governments try to add “red tape” or protections to migrant labor, such as the imposition of a deposit

or levy on workers. At the end of 2005 in Thailand, for example, employers fiercely lobbied against the imposition of higher levies until the government eventually dropped the regulation. The international community, sending country governments and local, regional and international NGOs, and migrants' groups, on the other hand, exert pressure on the government to uphold human rights standards and prohibit rights violations.

As long as the current framework is in place, there will be irregular migration. The high demand for cheap, flexible and controllable labor in countries which also have in place restrictive immigration, nationality and temporary work permit regimes, coupled with the loss of livelihoods and jobs in migrants' home countries which forces them to seek work abroad for survival, create the conditions for irregular migration. This framework places the interest of the State over the human rights

of migrants, and attempts to criminalize human beings for factors often beyond their control.

Migrants can be or become irregular migrants for many reasons. It may be competitive, difficult, or impossible to obtain the necessary documents. In Burma, for example, only rich and/or well-connected prospective migrants can afford to pay the fees and acquire the permissions necessary to get travel documents, leaving those who need to migrate with few other options than to go irregular. Receiving countries such as Japan limit opportunities for work visas for low-skilled work; to date, the country has only its much-maligned Trainee System, well known for being exploitative, as an option for low-skilled migrants hoping to work legally in Japan. South Korea, as well, had only a trainee system in place for low-skilled workers, until its enactment of the Employment Permit System (EPS) in 2004. Countries which have paternalistic policies towards women also contribute to irregular migration; in Nepal, for example, restrictions are placed on women who hope to migrate, which may prevent them from using regular channels.

Official channels for migration may entail an expensive, lengthy and bureaucratic process, making it quite tempting to avoid all the red tape through irregular migration. In addition, migrants who have historically migrated across regions before the imposition of border controls may simply be following their traditional ways. Corruption throughout the formal migration process may be involved as well, further adding to the costs and vulnerabilities of migrants. It has been well-documented that migrants pay exorbitant agency fees to work overseas, which can take several months to pay back. Corrupt agents can cause migrant workers to unknowingly migrate without proper documentation; agents may falsify migrants' documents, may promise them non-existent employers, or may traffic them into jobs other than the one promised.

Upon arriving in the host country, it is an all too common practice for employers to confiscate migrant workers' travel documents in order to prevent them from running away or as insurance in case of conflict. In the case of exploitation such as non-payment of wages or dangerous working conditions, migrant workers may be forced to leave their authorized employer, thus becoming irregular.

Despite the huge resources spent by receiving country governments on controlling movement, or as they call it, "managing migration", attempts to eradicate irregular migration have not only been largely futile, they have resulted in numerous human rights abuses against migrant workers.

Irregular migrant workers are among the most vulnerable groups of migrants. Migrant workers begin with a fundamental vulnerability due to the intersection of migration with forms of discrimination based on gender, class, race, ethnicity, religion and nationality, among others. Irregular status exacerbates this vulnerability, resulting in the worst forms of abuse, violence and exploitation of migrants, with direct denial and systematic violation of their rights. Many policy measures pertaining to irregular migrants are not rights-based; those that are, are often inadequate or not enforced in part due to lack of political will. This combination of factors leaves migrants vulnerable in many ways. They are vulnerable to exploitation by their employers, including non-payment, underpayment or delayed payment of wages; they may be forced to do overtime work and/or not paid for their overtime work in accordance with local laws; they may have to endure unsafe working conditions, including no or insufficient safety equipment and unsafe working environments; they may be forced to perform duties not within their employment contracts; they may be subjected to paternalistic policies regarding their living arrangements and even their activities when off duty. Unionization of irregular migrants has



Photo courtesy of MAP Foundation

Migrant workers in Chiang Mai queue to renew their work permits, as part of Thailand's registration process. June 2007.

been problematic; when a group of irregular migrants in South Korea formed a union in 2005, for example, the government refused to recognize it due in part to the irregular status of the union members.

Moreover, irregular status clearly puts migrant workers in fear of the law. Not only can employers exploit this vulnerability by threats or actions to report the workers to the police for any reason as mentioned above, but their status puts them at the mercy of the police and sometimes even civilians. While police corruption, including demanding bribes from migrants, is all too common, in Malaysia the government has even authorized civilian forces (called RELA) to conduct raids and “capture” undocumented migrants and pay them a fee for each migrant they turn in. The human rights abuses committed by these forces have already been well documented, yet the government continues to support them. In addition, irregular migrants may have difficulty accessing social services including health care, either due to

fear of arrest or because irregular migrants are not covered in the country's health care schemes. The children of irregular migrants may not be eligible to enroll in schools in the host country, not to mention the millions of stateless children born in host countries who do not recognize them.

Migrants and migrant advocates have long been engaged in advocacy to increase protections for irregular migrants. At the international level, there is the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which particularly includes irregular migrant workers in its protections. The ILO has issued Conventions Nos. 97 and 143 regarding migrant workers, although even these fail to afford sufficient protections to irregular migrants, for example Convention No. 143 supports a migration management framework, and encourages governments to identify and take action against irregular migrants, although affording them protections

in the process. At the regional level, there have been concerted efforts amongst NGOs from differing countries to engage in joint advocacies such as ASEAN. NGOs have also identified the intersection between irregular migration and trafficking, engaging the large anti-trafficking movement on the issues of irregular migrants. At the local level, advocates have been working to educate officials on the issues of irregular migration, and lobbying governments to come up with rights-based approaches to dealing with irregular migrants.

Although governments have long been struggling with ways to address irregular migration, most appear to have adopted periodic crackdowns and deportation as the method of choice, combined with attempts to tighten immigration security measures. Although deportations are expensive, have high administrative costs, and result in numerous human rights abuses that subject the state to enormous criticism, countries such as Malaysia and South Korea have persisted in the practice.

Thailand's latest registration procedures, the 2004 Alien Labor Policy of Thailand, which in effect regularized around one million irregular workers from Burma, Cambodia and Lao PDR, had been viewed as a good practice among migrants' rights NGOs. The registration process took place over two years, and consisted of many stages of procedures: migrants in the country first had to register for temporary residence cards, then undergo health checks, followed by registration for work permits. Fees were charged at each stage of the process. The fees amounted to THB3,800 for a one-year work permit, plus THB1,700 for access to Thailand's health care scheme. Of the 1,284,920 migrants who registered for temporary residence cards in July 2004 as the first stage of the process, only 871,170 workers registered for work permits in the July 2005 registration. Some migrants' rights NGOs attributed this not only to the high registration

fees, but also to migrants' experience of abuses and cheating during the registration process, as well as continued vulnerability to exploitation despite possessing registration documents. There were reports of employers and false agents cheating the migrants in various ways, such as collecting money for the fees but then providing the with false registration papers. In addition, even documented migrants continued to be subjected to police harassment and bribe demands, thus the documents failed to protect them. In short, it appeared that a large number of migrants did not believe the benefits of regularization outweighed the costs, thus even a "good practice" may be deeply flawed.

In light of the many issues that surround irregular migration, there is a need for advocates to identify and critically analyze current issues, perspectives and discourse, look at current strategies in addressing irregular migration, and make recommendations on how to promote the rights of irregular migrants. In November 2006, advocates came together in Singapore to analyze the phenomenon of irregular migration and identify strategies for migrants and migrant advocates to respond to the issues and needs related to irregular migration. There, they formulated the Singapore Declaration, to encapsulate their perspectives and develop a critical rights-based social justice framework in relation to irregular migration.

Endnotes

¹Not all people, actually; highly-skilled people have greater opportunities to reside in the country of their choice and/or follow flows of capital as can be seen in the WTO's GATS-Mode 4 provisions.

SINGAPORE DECLARATION

10th Regional Conference on Migration Current Perspectives and Strategies in Addressing “Irregular” Migration 6-7 November 2006, Singapore

We are 107 participants from 21 countries/territories representing migrants’ organizations, trade unions, women and other civil society organizations, academia and UN agencies to deliberate on current perspectives and strategies on “irregular” migration. We thank the Singapore National Trades Union Congress for hosting and co-organising the 10th Regional Conference on Migration (RCM). We acknowledge the support of the Ministry of Manpower of Singapore. At the Migrant Forum in Asia’s 10th RCM, we have come together as the largest Asian regional gathering of civil society groups and networks dealing with migration, human rights, gender, trade, and development in order to analyse and address irregular migration, and dialogue with key stakeholders, within a rights-based framework.

WE AFFIRM THAT NO HUMAN BEING IS ILLEGAL.

We reiterate the universality of human rights for all, including migrants, refugees, asylum-seekers and other people on the move. Migrants with irregular status have inherent, inalienable human rights regardless of immigration and nationality status. We view irregular migration in a holistic and comprehensive manner encompassing economic, social, humanitarian, political and cultural dimensions.

There is no international consensus on what constitutes ‘irregular migration’. Definitions currently in use are varied and based on individual governments’ perspectives of controlling mobility, restricting rights, and criminalizing ‘irregular’ migrants and those providing them support. The current framework on “irregular” migration places the interest of

states at the centre, rather than the human rights of migrants; it puts an unacceptable premium on national security rather than human security. The current model of neoliberal globalisation is based on new structures of international production chains and labour segmentation. These interlink a variety of firms including transnational corporations, with a mass of casualised and informalised jobs, often performed by migrant workers.

The high demand for cheap, flexible and controllable labour in these economies/places where there also exist restrictive immigration, nationality and temporary work permit regimes, coupled with the loss of livelihoods and jobs, create the conditions for mass labour migration, and migrants ending up in vulnerable and irregular situations. Neoliberal globalisation has also led to the privatisation of public services that have jeopardized the provision of care everywhere. The demand for domestic workers, care givers, etc., most of whom are women, has contributed to the feminisation of labour migration and is a manifestation of a global care-chain crisis.

Migration intersects with forms of discrimination based on gender, class, race, ethnicity, religion, nationality, sexual orientation and other forms that increase migrants’ vulnerability. Irregular status exacerbates marginalisation, discrimination, and oppression, resulting in the worst forms of abuse, violence and exploitation of migrants. Irregular status also results in direct denial and systematic violation of the rights of migrants.

Many policy measures pertaining to migrants in irregular situations are not rights-based. Those that are rights-based are inadequate, or are not enforced in part due

to lack of political will. Current administrative and regulatory frameworks emphasize criminalisation, punitive actions, national security, and complement the anti-terror agenda of the State.

The recognition and understanding of the existence of migrants in various irregular situations, and the complex reasons and causes that give rise to irregular situations, are essential in developing rights-based approaches. Perspectives, strategies and actions addressing migrants in irregular situations must be based on human rights, with particular emphasis on labour rights, social justice, respect for diversity, and sustainable development frameworks. We reiterate that all perspectives and strategies must be gender-responsive.

Therefore, the 10th RCM recommends the following:

I. GOVERNMENT PRACTICES, PROCEDURES, MECHANISMS, POLICIES & LAWS

1. With regard to the lack of safe, just, transparent and realistic mechanisms for regular migration, we recommend governments to:
 - a) Monitor multilateral, regional, bilateral agreements on services liberalization in order to make sure these do not impinge on migrants' rights; and
 - b) Refer to and use the ILO Multilateral Framework on Labour Migration, particularly Guideline 5 and its corresponding guidelines/measures.
2. In view of the lack of comprehensive and balanced legal frameworks for the protection of migrants' rights, we urge governments to:
 - a) Create and implement systems to recognize the skills and qualifications of migrants;
 - b) Ensure that local and national laws are consistent with international human and labor rights standards, and that these laws promote and enforce gender sensitivity, non-discrimination and equal treatment among local and foreign workers, and workers in all job categories, including domestic workers;
- c) Ratify international conventions and instruments relevant to migrants, particularly ILO Convention 143, 181, 97, the UN Convention for the Protection of Migrant Workers and Members of Their Families, Convention for the Elimination of Discrimination Against Women (CEDAW), and the five (5) other core human rights instruments; and the eight (8) fundamental conventions of the ILO
- d) Use Guideline 9.8 of the ILO Multilateral Framework on Labour Migration, which gives particular attention to domestic workers, trainees, temporary migrant workers, and women migrant workers.
3. Concerning the poor enforcement and monitoring of existing laws and policies that protect migrants' rights, we recommend governments to:
 - a) Introduce effective and efficient complaint mechanisms for the redress of migrants' rights violations, including provisions for irregular migrants to access these mechanisms while keeping their identity and legal status confidential;
 - b) Monitor and improve the implementation of existing mechanisms to deter agencies that malpractice and/or circumvent the law, including imposing penalties and disclosing errant companies, and provide incentives to promote good practices among agencies;
 - c) Commit more resources towards the enforcement of migrants' rights protection regimes, including providing awareness-raising and capacity building to government officials to develop their sensitivity on migrants' rights issues and understanding on how to more effectively implement

- corresponding laws and policies; and
- d) Use Guidelines 10.1, 10.2, and 10.3 of the ILO Multilateral Framework on Labour Migration.
- 4.** Regarding the prevalence of inconsistent and/or conflicting governmental policies on irregular migrants, we urge governments to:
- a) Conduct the repatriation of migrants with due process, rather than relying by default on mass deportation measures;
 - b) Examine existing policies and practices to identify inconsistencies between different governmental policies and their corresponding departments (e.g. homeland security/ internal affairs ministry, immigration, labor, health/social welfare, and other departments);
 - c) Create a transparent inter-agency steering committee on migration that facilitates the implementation of a coordinated national, rights-based migration strategy and protection regime; and
 - d) Create and publicize a transparent, rights-based national migration strategy and policy regime in consultation with relevant stakeholders, including civil society organizations, especially migrants' organizations and migrant-support groups.
- 5.** Concerning the lack of recognition of the existence of different types of irregular migrants, of the underlying factors that give rise to forced migration (e.g. political repression, armed and ethnic conflict, forced mass relocation/displacement, religious persecution, and the lack of sustainable employment opportunities in sending countries) and the lack of mechanisms to protect their rights, particularly for the most vulnerable irregular migrants, we recommend that governments:
- a) Introduce and enforce mechanisms to recognize, protect and assist the most vulnerable migrants, including asylum seekers, refugees and trafficked persons;
 - b) Create and implement specific measures within an overall migrants' protection regime to effectively meet the particular needs of asylum seekers, refugees, trafficked persons and other types of forced migrants, thereby recognizing the complexity of the situation and responding in a socially just and humane manner.
 - c) For ASEAN governments: continue dialogue with Burma and effectively resolve human rights abuses there;
 - d) Raise issues related to the human rights situation in Burma, that give rise to the forced migration of people from Burma, to international levels;
 - e) Undertake inter-governmental cooperation and agreements to deal with forced migrants; and
 - f) Ratify the 1951 Refugee Convention and the Trafficking and Smuggling Protocol.
- 6.** Considering that certain sending countries (e.g. Burma) do not recognize the status of their own citizens and refuse to accept them back when they are deported from receiving countries, we strongly:
- a) Regional bodies such as ASEAN to address the root causes of migration from Burma, namely the repressive regime that forces them to migrate; and
 - b) Receiving countries to provide temporary residency and work permits and visas, which allow migrants from Burma to access social services.
- 7.** In light of the criminalization of irregular migrant workers, the punitive approaches taken to address irregular migration, including the advertising of migrants as criminals, the use of civilian 'special forces' in rounding up irregular migrants, the provision of financial incentives for such groups, laws that criminalize migrants who run away from abusive employers, and the tendency to focus interventions on migrants themselves rather than on the principal actors and

structural factors that contribute towards their exploitation, we stress that governments should:

- a) Draw up bilateral agreements that build on international standards for the protection of the rights of all migrant workers and that there be strict monitoring and implementation of the same
 - b) Streamline the recruitment and deployment process
 - c) Not treat migrant workers as criminals or commodities, but as human beings
 - d) Regional cooperation at the economic level be fundamentally aligned to human rights principles
 - e) Draw up policies and mechanisms for social integration, inclusion and enforce non-discrimination policies
 - f) Amnesty and regularization programmes to be adopted as good practice
 - g) Governments should recognize that there may be refugees/asylum-seekers among irregular migrant populations, and that these are people with special needs.
- 8.** Regarding practices of arrest, detention and deportation that are often not well regulated and that lead to human rights abuses (such as exploitation, extortion, violence against migrants, deaths, poor and abusive conditions of detention, arbitrary and indefinite detention), we strongly urge governments to:
- a) Review arrest and detention procedures;
 - b) Sending countries should monitor and provide support for reintegration of those arrested and / or deported
 - c) At the international level, sending countries should have their embassies providing services for all migrant workers, including legal support.
- 9.** In light of irregular migrants' lack of or poor access to justice, whereby migrants often do not have due process and are summarily detained and/or deported, or even where

there are redress channels, there is poor enforcement due to language difficulties, high expenses, lack of legal assistance, and other factors, we recommend governments to:

- a) Strengthen specialized agencies to provide access to redress mechanisms and due process of law
 - b) Offer free legal aid for all migrant workers.
 - c) Ensure the efficient provision of interpreters during arrest, trials and other legal proceedings
 - d) set up safe houses/ shelter for migrants during the period of legal proceedings
- 10.** Regarding the reality of insufficient service provision to irregular migrants, whereby migrants are explicitly denied services and placed at the mercy of civil society groups, we believe that governments must:
- a) Provide assistance to on-site workers including quick response in emergency situations and for governments to advertise this service;
 - b) provide guidance for the movement of people, a comprehensive policy integrating sustainable development and reintegration;
 - c) provide safe channels for all migrants; and
 - d) provide a favorable investment environment for returning migrants
- 11.** Concerning the lack of accountability of sending governments to their migrants in taking responsibility for the abuses that stem from irregular migration, and their insufficient monitoring and regulation of recruiters and agents or their accreditation of recruiters without sufficient monitoring and regulation, leading to migrant workers abuse and exploitation, we urge governments to:
- a) Develop a comprehensive law to regulate and monitor recruitment agencies, including a complaint mechanism that can be utilized by any person. The liable party must be a person and not a company for accountability and liability purposes. Information on those violating

the law must be made public.

- b) Remove policies that give authority to employers and recruiters to control the mobility of migrants including exit from country and the withholding of travel documents;
 - c) Facilitate the process of direct employment; and
 - d) Create a timely complaint mechanism and legal redress system for workers on the issues of withholding documents and entitlements.
- 12.** Considering the labor export policies of sending governments, where export targets are set and trade negotiation frameworks are used by governments to maximize labor market access, due to the lack of viable employment options, as well as services in the sending countries for migrants, that leads to their over-staying in receiving countries, we urge governments to immediately:
- a) End migration policies that are premised upon labor export and economic profit;
 - b) Provide realistic and sustainable livelihood options to enable migrants to return home;
 - c) Set up sustainable reintegration programs in sending countries; and
 - d) Facilitate return programs in receiving countries in collaboration with host country resource provision
- 13.** In light of the tendency for receiving countries to keep migrant labor a temporary phenomenon, with no or limited options for permanent residency, we recommend:
- a) That governments respect the rights of family reunification as stated in the 1990 UN Convention on the protection of the rights of all migrant workers and member of their families
 - b) Respect the right of the children of migrant workers in line with Convention on the Rights of the Child
- 14.** In view of the general lack of recognition of the contribution of irregular migrants to

social, economic and political aspects of sending and receiving countries, we urge governments to:

- a) To commission independent research at the regional level (ASEAN, SAARC) with concrete recommendations and solutions.
 - b) To commission participatory research involving all stakeholders (migrants and migrant families, governments and migrant employers) on the contributions of irregular migrants to the economic, social, political and cultural aspects of both countries of destination and origin.
- 15.** As the children and spouses of irregular migrants are not recognized by States, leading to the non-registration of marriages and the birth of migrant children, hence the statelessness of migrant children and non-acceptance by the country of origin of their parents, we urge governments to:
- a) Map the gaps in policies addressing the issue as a way of leading to dialogue between sending and receiving countries;
 - b) Provide registration mechanisms, especially birth certifications and marriage registration to the children and spouses of irregular migrants.
- 16.** Regarding the lack of information and research on irregular migrants, we recommend governments to:
- a) Conduct dialogue between the respective responsible ministries / departments at the highest level of sending and receiving countries, including representation of civil society groups in such dialogues for a holistic and deeper understanding of irregular migration, with the objective of addressing causes and response to situations of irregular migration
 - b) The outcome of these dialogues feed into the making of public policy that is socially just and based on a human rights protection framework.

II. PRIVATE SECTOR

17. As irregular migrants are not allowed to have bank accounts, and they face difficulties in sending remittances back home safely,

- a) We recommend private institutions to provide migrants with favorable consideration so that they can access financial services (bank accounts, remittances, simplify access to loans, and other necessary services) easily.

18. In light of the reality that employers hold the labor of irregular migrants in high demand, as employers need to only offer them cheap wages and poor or no labor and social protections; and that recruiters charge irregular migrants higher costs, hence reaping huge profits for agents, but resulting in debt bondage for the migrants, we urgently recommend:

Governments to:

- a) Develop joint and solidary/several liability of employers and recruiters;
- b) Blacklist and track down errant recruiters;
- c) Devise and implement clear policies and mechanisms to regularize irregular migrants;
- d) Institute and implement policies such as a 'welfare fund' for migrant workers with clear provisions for irregular migrants in both sending and receiving countries;
- e) Amend and/or repeal discriminatory policies (for example, those that maintain temporary migration, such as the New Conditions of Stay—NCS--, and the six-year restriction on migrant workers' work permit renewal in Taiwan); and
- f) Ratify the ILO C181.

Civil society organizations to:

- a) Start an Agency-Employer Watch or a Multi-Sectoral Monitoring Committee;
- b) Develop multilateral responses in monitoring implementation of practice among recruitment/placement agencies

- c) Enjoin trade unions to include irregular migration issues in their advocacy and organizing efforts
- d) Sensitize and mobilize the media regarding irregular migration issues; and
- e) Expose exploitative practices through the media (e.g. revoke/cancel licenses).

III. CIVIL SOCIETY

19. Considering that CSOs have limited resources, cannot provide for all the needs of migrant workers, and are focused in capital cities with lack of or limited NGOs working in border zones and transit areas we recommend the following:

- a) Capacitate NGOs to fund raise and access resources
- b) Strengthen the capacity of NGOs working on providing services to migrants in remote areas
- c) Share information on donor agencies
- d) Strengthen and broaden advocacy networks including pooling of resources, improved sharing of information, cooperation on advocacy

20. Considering that initiatives of civil society organizations and governments to address issues are not mapped we recommend the following:

- a) To map out information on services provided by governments and NGOs
- b) NGOs and government agencies to work together in providing services for migrant workers

21. Considering that best practices in advocacy and services are not shared we recommend the following:

- a) Document best practices
- b) Hold forums and workshops to share best practices
- c) Improve networking among NGOs working on migration issues in particular in countries where there is no political space for migrant workers to act on their own behalf

22. In light that migrant defenders/civil society groups are also criminalized and monitored we recommend the following:

- a) To engage and strengthen cooperation with diverse stakeholders including National Human Rights Commissions and trade unions (national, regional and international)
- b) Report violations of migrants human rights utilizing existing channels/mechanisms at the national, regional and international levels (including UN Special Rap on MWs, UN treaty bodies, ILO committee of experts, others.)
- c) Develop more comprehensive reporting mechanisms.

23. Considering that there is no political space to raise human rights issues, including migrant rights that there is restriction on civil society groups to raise awareness on issues we recommend the following:

- a) Strengthen advocacy for the right of all workers to organize and unionise, including urging national trade union confederations to reach out to, and enlist migrants in their membership/provide services to migrants, including irregular migrants.
- b) Improve research and data collection on the needs, problems and issues of irregular migrants, and of their positive contributions to national economies and the well-being of host and home country societies.

24. Considering that civil society groups are not consulted/represented in policymaking and that there is lack of access to policy-makers we recommend the following:

- a) Strengthen engagements with policy makers, governments and various stakeholders including national human rights commissions
- b) Organize forums, dialogues and workshops involving policy makers and various stakeholders in the government

25. Concerning the lack of Engagement with the

ASEAN and regional/subregional bodies we recommend the following:

- a) Engage with ASEAN process on the elaboration of an instrument for the protection of migrant workers in the ASEAN and engage with the SAARC process

26. In light that Civil Society groups are not monitoring the implementation of international conventions (e.g. CEDAW, CRC, etc) we recommend the following:

- a) Monitor and intervene in international migration related human rights processes (e.g. human rights treaty bodies, UN & ILO core conventions, UNHRC, ILO Multilateral Framework, UNHLD, and others)
- b) Strengthen and broaden campaigns to urge governments to ratify the key UN and ILO conventions related to migration

27. In view of the fact that Civil society groups tend to adopt nation-state discourses uncritically

- a) There is a need to re-examine our assumptions, concepts, discourses through the critical lens of the globalization discourse

28. Considering that a big number of migrant workers don't know about their legal entitlements we recommend the following:

- a) Conduct information education on the rights of migrant workers
- b) Use all forms of media (including alternative, community radio, local TV, others) as a tool for advocacy and for information education

29. Considering that there is poor information flow to the public and lack of information on the plight of irregular migrants, distortion by the media we recommend the following:

- a) Conduct broad-based awareness-raising campaigns on the positive economic, social and cultural contributions of irregular migrants to home and host countries.
- b) Use all forms of media (including

- alternative, community radio, local TV, others) as a tool for advocacy.
- c) Develop media advocates on migrants rights
 - d) Invite/involve media in trainings of migrants' human rights

LIST OF PARTICIPATING ORGANIZATIONS

1. Action Network for Migrant Workers (ACTFORM)
2. aidha
3. Ain o Salish Kendra (ASK)
4. All Nepal Women's Association (ANWA)
5. Asian Migrant Center (AMC)
6. Asia and Pacific Regional Organization of Union Network International (UNI-APRO)
7. Asia Research Institute, National University of Singapore Asian Forum on Human Rights and Development (FORUM-ASIA)
8. Association for Community Development (ACD)
9. Atikha Overseas Workers and Communities Initiative
10. Batis Center for Women
11. Centre for Asia Pacific Social Transformation Studies (CAPSTRANS)
12. Center for Human Rights and Development (CHRD)
13. Center for Indian Migrants Studies (CIMS)
14. Center for Indonesian Migrant Workers (CIMW)
15. Center for Migrants Advocacy – Philippines (CMA-Phils)
16. Coalition for Migrants Rights (CMR)
17. CWPD
18. Federation of Trade Unions – Burma (FTUB)
19. Filipino Domestic Helper General Union (FDHGU)
20. Galilea Migrant Center
21. Hope Workers' Center (HWC)
22. Humanitarian Organization for Migration Economics (HOME)
23. Immigration Advisory Service
24. Incheon Migrant Workers' Center
25. Indonesian Migrant Workers Union (IMWU)
26. Institute for Global Justice (IGJ)
27. International Development Research Centre (South East and East Asia Regional Office)
28. International Gender and Trade Network – Asia
29. International Labour Office (ILO)
30. International Movement Against All Forms of Discrimination and Racism (IMADR)
31. International Network of Alternative Financial Institutions (INAFI) Asia and Bangladesh
32. International Network of Alternative Financial Institutions – Philippines (INAFI-Phils)
33. International Organization for Migration (IOM)
34. Jarnas Pekabumi
35. Joint Committee for Migrant Workers in Korea (JCMK)
36. Kanlungan Center Foundation, Inc.
37. Korean Minjok Leadership Academy
38. Labour Union of Migrant Workers
39. Migrants Assistance Program (MAP) Foundation / Action Network Migrants
40. Messrs. Charles Hector
41. Migrant Forum in Asia (MFA)
42. Migrant Forum India (MFI)
43. Migrant Services Centre (MSC)
44. Migrants – MND PCLU
45. Migration Working Group
46. Ministry of Manpower
47. Monitoring Sustainability of Globalisation
48. National Centre for Labour
49. National University of Singapore (NUS)
50. Osaka University for Foreign Studies
51. Pacific Studies and College of Asia Pacific Studies, Ritsumeikan Asia Pacific University
52. PICUM – Platform for International Cooperation on Undocumented Migrants
53. Public Services International
54. Refugee and Migratory Movement Research Unit (RMMRU)
55. Southeast Asia Regional Cooperation in Human Development (SEARCH)
56. Serikat Buruh Migran Indonesia (SBMI)
57. Singapore National Trades Union Congress
58. South East Asian Committee for Advocacy (SEACA)
59. Southeast Asian Studies, The University of Sydney
60. St. Francis of Assisi Workers Centre (SFWC)
61. Ta'amneh Law Firm
62. Transient Workers Count Too (TWC2)
63. Tenaganita Women's Force
64. The Australian National University
65. The Women and Media Collective (WMC)
66. Unlad Kabayan Migrant Services Foundation, Inc.

69. United Nations High Commissioner
for Refugees
70. Welfare Association of Repatriated Bangladeshi
Employees (WARBE)
71. Women's Rehabilitation Center (WOREC)
72. Working Group for an ASEAN Human
Rights Mechanism
73. Zentoitsu (All United) Workers Union