

STATEMENT OF THE ASIAN ALLIANCE FOR MIGRATION, DEVELOPMENT AND HUMAN RIGHTS

Prepared by Asia Pacific Forum on Women Law and Development, Global Alliance Against Traffic in Women and Mekong Migration Network

The Asian Alliance for Migration, Development and Human Rights (AAMDH) commends the United Nations for beginning a formal dialogue on migration and development. We also commend the inclusion of a round-table discussion on protection of human rights of all migrants and combating human trafficking and smuggling. Across the world migrant workers, particularly workers who are poor, female or from marginalized groups, are vulnerable to abuse and exploitation throughout the migration process – from unjust recruitment practices, to exploitative work conditions, to exclusion from basic services and no access to redress in destination countries, and to little support to successfully reintegrate on return.

Human rights, then, should not be seen as a discrete issue, but must be the bedrock and foundation for all discussion and at every level and stage of creating migration and development policies. This includes not only the substantive rights set out in the conventions, but also the principles of humanity, equality, human dignity and control over one's life.

There are no quick fixes or universal answers to these challenges but certain principles must always be kept in mind. **On this basis, we make the following statements and recommendations:**

1. **Migrants are human beings** and are entitled to all human rights enshrined in the core human rights conventions. The movement of a person across national boundaries or the status of a person under national immigration law does not take away or change her human rights.
2. As human beings, migrants are entitled to **enjoyment of life**. States have an obligation to provide adequate housing, recreational facilities, health care, education and other essential services for migrants and their families.
3. Migrants have the same right as all people to **self-determination**. As far as possible, migrants should be in charge of their own migration, protected from coercive, fraudulent or exploitative recruitment processes. Protected but not controlled.
4. Ensuring **the gender sensitive approach** to development and in the management of migration is mandatory. Through the gender sensitive lens, the rights of migrant workers include:
 - (1) The right to integrity of body and soul, in particular the right to be free from of all physical, psychological, and sexual violence;
 - (2) The rights to be free from gender-based discrimination; and
 - (3) The right to obtain reproductive health services and to obtain appropriate assistance in the event of sexual and gender based violence.
5. Migrant workers and their families are accorded specific rights and protections under the **1990 Convention on the Protection of Human Rights of All Migrant Workers and their Families**. This convention is one of the core international human rights conventions and should be adopted and enforced at the national levels. We urge all States to sign and ratify this document and end the exploitation of migrant workers.
6. Migrant workers are also workers and entitled to enjoy the benefit of the **International Labour Standards** in member States of the International Labour Organisation, in particular the Fundamental Conventions on Forced Labor (Conventions 29 and 105). We also urge member States to ratify and apply the Conventions on the rights of migrant workers, 97 and 143 and work towards the ILO goal of **Decent Work for all**.

7. The rights to **freedom of association and collective bargaining** are enshrined in human rights law and international labour law. They are essential to defend workers from exploitation. Migrant workers are entitled to these rights and we urge governments to ensure their protection.
8. **Governments should protect workers in the informal sector** under National labour laws and take measures to monitor the conditions of work. In view of the increased demand for foreign migrant domestic workers around the world, we call on Governments to recognize domestic work (household work) as work and to reform national labour laws to include protection of domestic workers
9. **Immigration controls**, such as categorizing migrants or preventing their entry, on the basis of race, class or gender is contrary to basic human rights principles. The discriminatory closing of borders only contributes to irregular migration and the vulnerability of migrant workers to exploitation. The egregious crime of human trafficking is fueled by such policies. We urge States to implement **non-discriminatory open-border policies and classifications which are not to the detriment of migrant workers**.
10. **Trafficking and migration are separate but intimately linked**. Trafficking results from a number of injustices that force the movement of certain peoples and leave them vulnerable to abuse: inequality within and between countries, gender inequality, development policies that disenfranchise populations, immigration policies that try to prevent such movement and the toleration of exploitative work practices in destination countries. Adopting a human rights approach to all policies on development, migration and labour is the only way to truly combat and prevent trafficking. For individuals who have been exploited through the migration process, states should establish services to protect these individuals.
11. The exploitation of migrant workers often occurs in an environment of **xenophobia and discrimination**, in which migrants are considered lesser and not due the same rights or entitlements as the nationals of a State. To reduce these dangerous notions, we urge governments:
 - (a) To implement public education campaigns to raise awareness on the rights of migrant workers and emphasize that migrant workers are human beings.
 - (b) To provide training to all stakeholders in the migration process, including border police, health workers, security agencies etc on the rights of migrants and to reduce discrimination.
 - (c) To take effective action against discriminatory or xenophobic behaviour directed towards migrants.
 - (d) To ratify the International Convention on the Elimination of All Forms of Racial Discrimination and reform laws and policies in line with the obligations under this convention.
12. All victims of violations and abuses, either by the State or non-state actors have a **right to access to justice and to redress**. Ensuring access to justice is a non-derogable obligation. We urge States to provide avenues for effective, non-discriminatory and timely justice for all migrant workers who suffer exploitation and abuse, including victims of human trafficking. Appropriate compensation should be provided for all migrants who are victims of abuse and crime, including for abused women migrant domestic workers, migrant rights defenders, and victims of trafficking,
13. Measures should be taken to **allow migrants to return home voluntarily** where they are liable to arrest and deportation for immigration violations. Where deportation is enforced, the dignity and safety of migrants must be respected during arrest, detention and deportation. Mass deportations cause mass suffering, accidents and human rights violations and should be avoided at all costs. No migrant should be deported to a country where their safety on return might be threatened by the authorities of the country of origin.

14. Ensure that embassies and consulates of countries of origin directly take responsibility for protecting, the rights, welfare and well-being of all migrants. All embassies should set up Labour attaché units, trained and sensitized to the needs of the migrants.
15. Migrants **remittances** are making significant contributions to the development of countries of origin. The Migrants, and not the remittances, should be recognized for this contribution and measures should be taken to facilitate the sending of remittances in the fairest way possible. We urge governments to:
 - (a) Demand a reduction in the transfer fees on transfers from migrants to their home countries.
 - (b) Give migrant workers access to banks and financial institutions in destination countries so that they can save and remit the money as they choose.

Develop regulations regarding **recruiting agencies and organized brokering** by:

- (a) Abolishing visa trading practices.
 - (b) Monitoring recruitment and brokerage agencies to ensure protection of the rights of migrant workers.
 - (c) Ensuring access to remedies and redress for migrants who have suffered violations of their rights. In particular, traffickers of people should be brought effectively to justice, and the protection of victims of trafficking must be ensured by states of origin, transit and destination.
16. The establishment of **bilateral and multilateral agreements** can facilitate development strategies of origin and destination countries, while also protecting the rights of migrant workers. We urge governments to follow best practice examples of such agreements, which incorporate rights protections in accordance with the 1990 Migrant Workers Convention.
 17. We urge states to **end practices of arbitrary, indefinite or prolonged detention** and abuse of deportees, and to guarantee their safe return to their home countries.
 18. Measures should be taken to **support the creation of migrant rights groups** or collectives, including legal measures to allow their existence and access to funds, capacity building and inclusion in policy decisions.
 19. A human rights approach is based on principles of **participation and consultation**. This is also the fundamental basis for the work of the international community as evidenced by the phrase “we the people of the United Nations”. All stakeholders in the migration process MUST be involved in the formation and implementation of migration and trafficking policy. The dialogue must be ongoing and must occur at the international, national and local levels.

Signed by:

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