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Amnesty International's recommendations on the occasion of the High-level Dialogue on International Migration and Development

On the occasion of the High-level Dialogue on International Migration and Development, which will be held at the United Nations (UN) General Assembly on 3 and 4 October 2013, Amnesty International calls on states to ensure that human rights are strongly integrated in all discussions and to support the establishment of a Standing Panel on Migration and Human Rights within the UN.

By dedicating the High-level Dialogue to the theme of “[i]dentifying concrete measures to strengthen coherence and cooperation at all levels...”,¹ the General Assembly recognized that international migration invokes the responsibilities and obligations of states of origin, transit and destination and therefore cannot effectively be dealt with in the absence of international cooperation. Such cooperation must be firmly rooted in international human rights law.

Before being an economic and development issue, migration is a human experience. Unlike international trade, migration is not about goods and services: it is about people. The main stakeholders of international migration are the women and men who migrate to other countries in the hope of a better future for themselves and their families. This is why migrants and their rights must always be at the centre of all discussions on migration. Migrants' human rights must come first.

Integrating human rights within the High-level Dialogue

In recognition that all aspects of migration policies have a direct effect on migrants' rights, Amnesty International calls on states to ensure that human rights are integrated in all High-level Dialogue meetings and roundtables.

In particular, Amnesty International calls on all states to reaffirm their commitment to the human rights of migrants in their statements at the High-level Dialogue, by making pledges to:

- Ensure that all border-control operations are carried out in full compliance with international human rights obligations, in particular with respect to the right to life and humane treatment and the principle of *non-refoulement*;
- Implement alternatives to migration detention and recognize that migration detention is a measure of last resort and should never be imposed on children;
- Ensure effective access to justice for all migrants without discrimination, in particular based on migration status, so that irregular migrants are able to seek remedies without fear of detention or deportation;

- Take concrete measures to tackle racism, hate speech, xenophobia and violence against migrants;
- Repeal any domestic legislation criminalizing irregular entry and/or stay in the country.

Amnesty International notes that the human rights of migrants are expressly mentioned in only one of the themes for the four roundtables organized in the framework of the High-level Dialogue.² However, all roundtables require a human rights perspective:

- Roundtable 1 on sustainable development³ should promote the inclusion of the human rights of migrants in the post-2015 discussions;
- Roundtable 2 on human rights, smuggling and trafficking should promote best practices and discuss concrete measures for the respect, protection and promotion of the rights of all migrants without discrimination, in particular based on migration status;
- Roundtable 3 on partnership and cooperation⁴ should stress that all initiatives should be transparent and participatory and involve migrants, civil society, trade unions and other relevant actors;
- Roundtable 4 on labour mobility⁵ should focus on the labour rights of all migrant workers and provide practical guidance on measures to respect, protect and promote those rights without discrimination, in particular based on migration status.

The institutional framework for migration governance

The High-level Dialogue on International Migration and Development is also an important opportunity for broadly reviewing the current structures for the governance of international migration and the integration of human rights within them.

Migration is by its very nature a global phenomenon, therefore the respect, protection and promotion of the human rights of migrants requires integrated action. The exploitation of a migrant worker, for example, can involve a large number of actors across several countries. Every actor involved, from the government and the recruitment company in the country of origin, through the employer and the government of the country of destination, to multinational companies responsible for the supply chain in a third country – all have obligations and responsibilities.

Monitoring this complex chain requires sustained dialogue and integration between all actors. The contribution of trade unions and civil society organizations, particularly migrants' organizations, is essential to this dialogue and, more broadly, to the development of migration policies that are compatible with human rights.

Amnesty International believes that the current institutional framework for governing international migration is inadequate for the fulfillment of the human rights of migrants, as it is fragmented and unable to address human rights issues in a coherent and effective manner. Several institutions, both within the UN system and outside of it, are entrusted to look at some aspects of the migration issue. However, none of these institutions has a specific and comprehensive mandate for the protection and promotion of the rights of all migrants.

The Global Forum on Migration and Development (GFMD) was created to respond to the need for international cooperation on issues of migration. However, the GFMD is an informal forum and its activities are not grounded in human rights law. Although discussions may include the rights of migrants,⁶ the deliberations take place on an entirely voluntary, non-binding basis. Additionally, access for civil society organizations to the GFMD's meetings is severely limited.

Institutions like the International Organisation for Migration (IOM), the UN High Commissioner for Refugees (UNHCR) and the International Labour Organisation (ILO) undertake important work, but they can only do so within the limits of their mandates. Although IOM's activities can contribute to protecting the human rights of people involved in migration, IOM's mandate is not based on human rights law. UNHCR's primary purpose is to protect the rights of refugees and asylum-seekers, not of migrants. ILO's tripartite structure⁷ recognizes the importance of cooperation between governments and employers' and workers' organizations in promoting the labour rights of migrant workers; however, its mandate is limited to the human rights issues related to labour.

The Office of the High Commissioner for Human Rights (OHCHR) is mandated to promote and protect all the human rights of all people. Despite this broad mandate, however, the Office has limited resources.

Amnesty International strongly supports the idea, suggested by the Office of the High Commissioner for Human Rights, of a Standing Panel on Migration and Human Rights, i.e. a permanent platform within the UN system tasked to ensure coherence in addressing the human rights issues related to migration.⁸ Such a panel should include governments, international agencies and regional organizations, migrants, civil society, the private sector and trade unions. Amnesty International recommends states to support the establishment of such a Panel.

¹ UN General Assembly Resolution 67/219, International migration and development, UN Doc. A/RES/67/219, 26 March 2013.

² Roundtable 2 is dedicated to "Measures to ensure respect for and protection of the human rights of all migrants, with particular, with particular reference to women and children, as well as to prevent and combat the smuggling of migrants and trafficking in persons and to ensure orderly, regular and safe migration."

³ Roundtable 1 is dedicated to "Assessing the effects of international migration on sustainable development and identifying relevant priorities in view of the preparation of the post- 2015 development framework."

⁴ Roundtable 3 is dedicated to "Strengthening partnership and cooperation on international migration, mechanisms to effectively integrate migration into development policies and promoting coherence at all levels."

⁵ Roundtable 4 is dedicated to "International and regional labour mobility and its impact on development".

⁶ Note verbale dated 8 May 2013 from the Permanent Mission of Sweden to the United Nations addressed to the Secretary-General, UN Doc. A/68/81, 15 May 2013, para22-24.

⁷ The ILO's three main bodies (The International Labour Conference, the Governing body and the Office) comprise governments', employers' and workers' representatives.

⁸ OHCHR, Migration and human rights: Improving human rights-based governance of international migration, September 2013, p42. There are example of specialized forums within the UN system from which ideas could be borrowed to establish an effective Standing Panel on Migration and Human Rights. The Executive Committee of the UN High Commissioner for Refugees, for example, allows for dialogue and cooperation between states within the normative framework of the United Nations and has, over the years, facilitated the development of refugee protection standards.