

Statement of Civil Society to Governments

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Excellencies, ladies and gentlemen, fellow migrants and colleagues:

We find ourselves here in Mauritius, civil society and governments, holding *together*, not separately, the hope of a young Afghan woman: a migrant, like many, prevailing with dignity and power after years of sacrifice and suffering in a range of forced migration journeys and exploited employment.

“What would we do at the Global Forum?”, she asked. **“We come here for *change*,”** we replied: change that matters to migrant women and men and children and their families, to communities and countries everywhere. **“Do you think we can do it?”**, we asked her. **“Yes,”** she said. **“If you want to.”**

We are here today—governments and civil society—not for ourselves. We are here for change.

140 representatives of civil society organizations from around the world gathered in Mauritius this week to work on change that matters in the areas of labour migration, protection of migrants, promotion of their rights and development. Like many of you, a majority of us are migrants; many more have at least one family member who is a migrant. We were inspired by increasing reminders—in so many lives and countries and movements—of an important truth: together we are major players and we know it.

We were invigorated by the awareness that this is the first time that the Global Forum has been held in Africa, and we welcomed the largest number and voices of African civil society delegates and diaspora in the six years of the Forum to date.

We opened our Civil Society Days part of this Global Forum to your full participation, and appreciate that 60 representatives of governments and intergovernmental organizations joined us, as well as another 30 special guests and media. And we welcome once again this moment to work with you this morning. We are co-responsible in these matters; we commit to looking not only at what governments need to do, but at ourselves and what we need to do, as well as what we can do together.

Our starting point here were the recommendations from prior GFMD meetings—of governments as well as civil society, and in particular those from last year. We noted and built upon considerable convergence that has already been established.

But beyond advancing a set of recommendations, civil society’s specific effort this year was to identify concrete benchmarks and mechanisms for action, and to frame civil society priorities for the High Level Dialogue on Migration and Development at the UN General Assembly next year.

1.a. We looked at the conspicuous need to regulate and monitor recruitment, placement and employment practices.

For change, we affirm the responsibility of national policies to promote decent work at home, but note also the *sine qua non* of legal channels of migration, and pathways to permanence, to mitigate conditions that foment abuse by unscrupulous private recruitment agencies. Significant upgrades are needed in public management of recruitment activity, including strong licensing and regulating of recruitment that is effectively enforced, ensures accountability and clearly identifies the rights of workers and responsibilities of all parties.

We commend a growing range of existing **tools and mechanisms**, but first and foremost, the rights and practice of freedom of association, worker organizing and collective bargaining. Ratification and full implementation of the international human rights and labour conventions of the UN and ILO are essential. Civil society notes the coming into force of the ILO Domestic Workers Convention since our last gathering at the GFMD, and applauds the five ratifications to date, notably including Mauritius as well as two recent ratifications approved by parliaments but not yet formally filed. We continue to advocate vigorously for universal ratification and implementation of this important convention.

Multi-stakeholder codes of conduct and frameworks can also have value, including the ILO *Multilateral Framework on Labour Migration*. Conventions or frameworks however, need national legislation with teeth: e.g., with effective monitoring, incentives for compliance and sanctions otherwise. It is time to develop systems that collect and compile data about recruitment violators. Labour attaches have a responsibility to their citizens abroad to share data both on recruiters and on country practices.

Benchmarks can measure success, among them:

- a reduction of the number of brokers and intermediaries and instances of illegal recruitment.
- creation of a system to promote good practices and expose bad practices
- increased ratification of UN and ILO conventions, including the 1990 UN migrant workers convention, and the ILO conventions 181 regarding recruitment processes and 189 on domestic workers.
- decreasing costs of migration.

1.b. We looked at improving jobs, skills and education matching.

For change we affirm that there is a need for harmonizing and recognizing qualifications. Countries should invest more in training in order to meet routine staffing needs and reduce international recruitment. We ask for minimum training standards across countries within industries. Employers should invest in training for migrants that is directly relevant to the labor market.

We need to create bilateral and multilateral agreements based on international standards and instruments, as well as domestic policies, using a tri-partite approach.

The impact of emigration on particular service providers in countries of origin should be recognized, e.g. on the health sector. Among the **tools and mechanisms** we commend are international codes for ethical recruitment such as the *WHO Code of Nurse Recruitment* and the *Commonwealth Teacher Recruitment Protocol*. National immigration policies should allow options for permanent settlement and family unification. Collective bargaining agreements, apprenticeship programs and job training should be encouraged. Migrants should be compensated at prevailing wages, and health and safety norms enforced.

We recommend improvements in qualitative and quantitative data collection on migration and analysis to ensure the production of relevant information for stakeholders, with particular emphasis on South-South migration.

Migrants should have the possibility of applying to a job directly, without intermediaries. We believe that a reduction in visa barriers (e.g. fees) and simplification of visa types would enhance development. However, labour migration should not be used to promote false notions of development.

We propose the following **benchmarks**:

- increase investment in migrant workforce and in skills training by both governments and employers
- ensure that migrants can work in the jobs they have been trained for (e.g. avoid de-skilling).
- increase the size of the formal sector relative to the informal sector
- increase the possibilities of migrants' affiliation to unions
- creation of public employment agencies to assist in placement of domestic and migrant workers.

2.a. We looked at the ever-expanding dynamism of diasporas in development.

For change, there must be a clear mandate for migrant participation in policy-making in countries of origin and destination on the full range of development planning, with meaningful attention to diaspora priorities, investments and other engagement, including entrepreneurial endeavours, investment guarantees, social remittances and knowledge exchange, capacity building, business networking and legal protection.

We are encouraged by the growing number of tools and mechanisms that are helping to bring about this change, but benchmarks for achievement in the near-term should be:

- 20 countries having consultative mechanisms that explicitly include migrants and diaspora communities in policy-making that concerns them
- 20 countries with programmes, services and funding mechanisms that support a range of migrant and diaspora investment
- 10 more countries with dual nationality laws
- 5 countries with new laws on recognition of skills of migrants/diasporas

In the wider context of development, the issue of migration should be incorporated in its own name into the post-2015 development agenda.

2.b. For the first time ever in our work at the Global Forum, we looked beyond diaspora dynamics at broader interactions of development with migration, and specifically at rights-based development solutions and migration.

For change, it is necessary to formulate national-level, bilateral policies on migration and development, promoting human and migrant rights and enabling migrants to meet their potential.

Forming and institutionalizing multi-stakeholder partnerships on migration and development covering efforts to share practices is important. These should address the social costs of migration and aim at harnessing the development potentials of remittances and migrants' knowledge.

Origin and destination countries should generate and disseminate migration and development data to inform migration and development policies.

We recommend multi-stakeholder **mechanisms** convening government, civil society, diasporas and other stakeholders to look at migration's impact on development as well as development's impact on migration. Regional consultative processes (RCPs) could be an adequate venue for these mechanisms.

There should be more policy studies on the impact of remittances on development.

Benchmarks might include, in the near-term:

- At least 20 origin countries formulate migration and development policies and strategies
- At least 20 countries set up multi-stakeholder processes / consultative mechanisms on migration and development.
- At least 10 origin and destination countries create relevant databases, studies and analyses on migration and development.
- At least 10 origin countries develop national-level indicators on migration and development for monitoring purposes.
- By 2013, civil society develops reflections on migration and the post-2015 development agenda.

3.a. We looked at protection of vulnerable migrant workers.

Civil society calls for the full recognition of the mandate of the ILO as regards labour migration.

For change, it is high time to challenge the security framework for migration, in particular by overhauling systemic defaults to detention and deportation. Universal human rights include access to services for irregular migrants. Migrant-related policies of all kinds must be tested against the best interests of children, and should mainstream gender issues.

Many tools and mechanisms of protection exist, and some need further to be developed. Indisputably, the first requisite for protection is binding national and international law. Such laws must then be translated into action; and finally, enforced fairly.

Specifically to respect the human rights of irregular migrants and to ensure access to rights and services, government officials and service providers should not be required to report on immigration status, and migrants should not be discriminated against in accessing services and protection. Residency permits must be provided to survivors of human trafficking.

Regardless of immigration status, data-collection systems regarding migrants, including in consulates, must be both rights-centered and protection-sensitive. Migrant workers must be able to open bank accounts and register the account to the central bank to ensure timely payment. Circular migration is often marketed as a best practice, but should critically be reviewed.

It is time for us to be as clear and accountable as we are ambitious for this change, setting achievable **benchmarks** of at least:

- the inclusion of migrant concerns like portability of pensions in bilateral agreements and negotiations.
- a new flexibility of work choice: migrant workers should not be bound to one employer.
- mapping of countries' domestic compliance with international standards and their progress towards the harmonization of domestic law with international law.
- mapping of best practices on the protection of vulnerable migrants and progress towards countries' adoption and implementation of them.
- making official development aid more available to diaspora-led programs.
- increasing the number of development agencies that contribute and participate in the GFMD.

3.b. We looked at Protecting migrants in dire humanitarian situations

For **change**, we need to look more at the migration consequences of all types of crisis and distress, together with the underlying vulnerabilities. Migrants' sufferings have to be incorporated in humanitarian processes and protection systems. One important issue is to realize that there needs to be protection at every stage of the migration process, including in situations of returns.

In order to provide protection impartially, there should be no divisive humanitarianism. Indeed, we need to go beyond a categorical approach in providing protection, which has to be driven by principles and needs-first. One principle is clear: all distressed persons need access to international organizations and all international organizations should be able to help them.

But beyond ratification of international instruments, the issue is low implementation. Therefore, we need to create political will to implement the instruments. We also have to provide governments with the necessary tools to enforce instruments.

There are a fair number of **tools and mechanisms** already existing. *Minimum Standards for Child Protection in Humanitarian Action* should be used to improve the quality of child protection. These standards should be part of programming of an intervention and guide humanitarian preparedness.

Existing mechanisms providing tools and benchmarks should be further promoted, e.g., UNHCR's *10-Point Plan of Action for Refugee Protection and Mixed Migration*; UNODC *International Framework for Action to Implement the Smuggling of Migrants Protocol*). IOM is currently in the process of developing a *Crisis Migration Framework*.

Capacities of various stakeholders differ and can be complementary. Therefore, broad collaboration and effective coordination among all actors should be developed: it is only through close collaboration that protection can be achieved, from technical aspects to legal follow up. This means improving interaction between NGOs and international organizations but also with governments. It is important to have efficient information sharing and contingency planning. Such efforts should also include civil society partnerships and networking between sending and receiving countries to monitor situations and protect migrants. Employers also have a responsibility for their workers and can play a role in crisis situations, e.g., help people to go home.

We need to create awareness among potential migrants about crisis situations and the risk they may face and at the same time create attractive economic opportunities for people in countries of origin, especially rural areas (so that they do not need to leave).

Countries of origin, transit and destination have a responsibility to protect and respect the rights of migrants and should be held accountable. States should strengthen protection of migrants in difficult situations; consular protection should be enhanced and extended to people in distress.

Civil society organizations should build on their strengths and networks and be proactive in suggesting actions and solutions, for example, opening shelters and information center for migrants in distress and providing legal services.

Governments should introduce a human rights dimension in border management: tools and mechanisms at border controls are needed to safeguard the human rights of migrants, which imply raising awareness and capacity building for government officials. Civil society can help in this regard (good practice: example of Lebanon).

Benchmarks

- pilot and widen implementation of multi-stakeholder projects, i.e., with governments, international organizations and NGOs, building on the “Lampedusa model” and other initiatives and develop and replicate best practices.
- make migrants in crisis a priority for the yearly agendas of Regional Consultative Processes (RCPs) and include all stakeholders in those processes.
- call on the UN Special Rapporteur on Migrants to conceptualize a coordinated protection framework for migrants in dire humanitarian situations, including guiding principles.

4. The UN High Level Dialogue on Migration and Development in 2013

Finally, as critical stakeholders and partners in both global policy-making arenas and programs on the ground, civil society expects to have a central role in the UN High Level Dialogue in 2013, beyond the limited format of the 2006 High Level Dialogue. We call for:

1. Substantive **preparatory activities** at the regional and international level;
2. **Full and active participation of civil society** in the High Level Dialogue itself;
3. **Resources**, including a trust fund, to enable an international steering committee to coordinate civil society engagement in the High Level Dialogue;
4. **The 2013 UNHLD to focus on:**
 - a. Measures to promote and protect the human rights of all migrants, including migrants in distress; irregular migrants; and the rights of children in the context of migration
 - b. Labor migration and decent work, including immediate possibilities to address abuses within the recruitment field
 - c. Gender and migration
 - d. Migration and development, including the post-2015 development agenda;
5. A **succinct, negotiated outcome document** that can address critical issues of global migration governance and concrete actions for strong HLD outcomes.

Ladies and gentlemen, partners in action, six years on in the Global Forum process:

/ even as governments and civil society echo one another that migration should be a choice and not a necessity, millions of men women and children being forced to migrate and forced to return;

/ even as there is wide convergence among us all that the positives of international migration far outweigh the negatives, outbreaks of xenophobia, racism and discrimination are filling not only newspapers but law books;

/ even as migrants by the hundreds of million play a foundational role in the economies and societies of nations throughout the world, they continue to suffer discrimination in labour rights, access to basic health services and justice, and portability of benefits;

/ even as widely ratified international treaties of all kinds talk of the unequivocal right to family unity and the protection of the best interest of the child, millions of families are broken across borders.

As we together explore the intersections and collisions of migration and development in this Global Forum and upcoming High Level Dialogue, we tell ourselves and may we all remember: we are here today not for ourselves. We are here for change.

/Thank you.

**Annex to the Civil Society Statement:
Affirmation of Civil Society Convergence on recommendations from prior GFMD's
(2007 – 2011)**

On the theme of **“Regulating and Monitoring Recruitment, Placement and Employment Practices”**, civil society re-affirmed the following recommendations from prior GFMD Civil Society Days:

1. Calls for governments to better regulate and monitor recruitment and employment practices, by creating sound and transparent licensing and monitoring systems, codes for ethical recruitment, simplified procedures, instituting sanctions, cap permissible recruitment fees, establishing whistleblower protections, portable justice, and reporting mechanisms for abuses, and ending visa-systems that tie migrants to specific employers.
2. Urges governments to work with employers, labour unions and other social actors to create more regular and safe migration channels that address labour market and protection needs, and ensure family (re)unification.

On the theme of **“Improving Jobs, Skills and Education Matching”**, civil society re-affirmed the following recommendations from prior GFMD Civil Society Days:

3. Urges governments to invest together with businesses, academia and other civil society actors in labour market analysis in order to develop mechanisms for the matching of education and training programs with labour market needs in both origin and destination countries and to organize skills and credential recognition in a just and more effective way so as to address present and future mismatches between labour supply and demand and prevent de-skilling and brain waste.
4. Insist that matching schemes that are circular or temporary in nature, do not replace permanent employment, and should ensure the same rights and entitlements to all workers, including equal payment, access to social security and freedom of association, and should include the portability of pension and other security benefits related to employment, as well as pathways to permanent residence status and citizenship.

On the theme of **“Engaging Diaspora as Entrepreneurs, Social Investors and Policy Advocates”**, civil society re-affirmed the following recommendations from prior GFMD Civil Society Days:

5. Urges governments both in countries of origin and destination, foundations and other donors to include diaspora and migrant voice and organizations in development policy formulation and implementation and to each create a national platform for dialogue with migrant/diaspora representatives, 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.
6. Calls upon local, state and national governments to create conducive legal and financial frameworks to promote migrants as entrepreneurs, provide access to credit, property rights and skill development, and promote Small and Medium Enterprises (SME) which can play a critical role in job creation (e.g. by governments of countries of origin providing low interest loans to migrants abroad towards income generating investments back home)
7. Recommends to migrant/diaspora organizations create trust relationships and partnerships among themselves and other partners including the *private sector, local authorities and “mainstream” development organizations*; to share experiences and knowledge, to replicate and scale up projects and build a common vision on specific themes that enable advocacy with one cohesive voice

On the theme of **“Rights-based Development Solutions and Migration”**, civil society re-affirmed the following recommendations from prior GFMD Civil Society Days:

8. Insists to governments to regard their primary responsibility for sustainable and human development thus adopting a rights-based approach to development which ensures economic and social rights – including access to decent work and essential public services (chiefly education, vocational and technical training programmes, and health care, that are necessary to make the “right to remain” possible; and to abandon aid conditionality and to detach development programmes and assistance from the repatriation of irregular migrants and (ex)asylum-seekers).
9. Calls for effective coordination (a) between ministries and departments - including ministries of health, education, labor, social security and development/foreign assistance (b) “vertically” across levels of government—national, state/provincial, and municipal; and (c) between government and representative bodies of civil society organizations, including diaspora and migrant organizations.

On the theme of **“Protecting Vulnerable Migrant Workers”**, civil society re-affirmed the following recommendations from prior GFMD Civil Society Days:

10. Continues to strongly urge governments to ratify, implement and enforce conventions providing for equal treatment and the protection of migrants, first and foremost the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the other core human rights conventions; and key ILO conventions, chiefly Conventions 97, 143 and the Domestic Workers Convention (189); and strongly encourages civil society to continue their ongoing advocacy on the ratification and enforcement of the conventions and to collect, share and showcase successful relevant advocacy campaigns.
11. Calls for the observance of all workers’ human rights and labour rights regardless of the workers’ 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, and legal remedies, including sanctions and prosecution of those violating the rights of migrant workers.
12. Urges governments to provide for regular and safe migration channels, including regularization mechanisms, for migrant workers, including migrant domestic workers, and to end the “kafala” and similar sponsorship systems; and to stop the criminalization of migrants with irregular status, making them further prone to discrimination, exploitation and de-humanization and to 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.
13. Calls on governments to ensure that migrant children are treated as minors and are able to enjoy the full range of rights, irrespective to their migratory status; to reaffirm and reinforce family rights, in particular the right to family unity and reunification; and to acknowledge that the different needs and experiences of women and men while migrating and thus to adopt elaborate gender-sensitive protection and migration policies.

On the theme of **“Protecting Migrants in Dire Humanitarian Situations”**, civil society affirmed the following recommendation:

14. Urges states and international agencies to join us in urgently putting in place consistent responses of assistance and protection to victims in transit, 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.