

MFA STATEMENT ON MIGRANT SMUGGLING

Over the years, poverty has been the main reason why people migrate from one country to another. However, nowadays, there have been many other emerging drivers of migration such as the worsening climate change and environmental degradation, war/violence, and persecution in countries of origin (COOs). As a response to this, many transit and destination countries tightened their migration policies which only led to migrants' rights violations and proliferation of migrant smuggling, defined by the United Nations Office on Drugs and Crime (UNODC) as "the facilitation, for financial or other material gain, of irregular entry into a country where the migrant is not a national or resident".

Lack of regular migration pathways makes migrants easy targets of smugglers. The cheaper cost as well as easier and faster track that irregular channels offer attract migrants compared to exorbitant recruitment and migration fees, restrictive policies, and strenuous procedures that regular pathways present, on the other hand. Sometimes, migrants just lack the proper documentation and pertinent information that the government must have been providing, reaching even on the ground. False promises and narratives that irregular migration is safe and that smuggled migrants can get regularized upon arrival convince some people to take this route as well. While in fact, smuggled migrants, especially women and children, face various abuse and exploitation such as rape and sexual harassment, physical violence, prostitution, forced labour, etc., and even death, particularly for those being transported via sea and cramped vehicles. It is almost automatic that if undocumented migrants were caught, they would end up being arbitrarily detained in detention centres with inhumane conditions where even "authorities" feel they are entitled to violate the migrants who have no choice but to endure until they get deported. It has been harsh even for those who are seeking refuge to other states who are bound by international law and "humanity" to protect and preserve lives without discrimination to such refugees and asylum seekers.

As Migrant Forum in Asia (MFA), a network of grassroots organizations, trade unions, faith-based groups, migrants and their families and individual advocates in Asia working together for social justice for migrant workers and members of their families, we appeal for the following:

1. Full respect of human rights, regardless of migrant's status, and cessation of detention and of course, criminalization of irregular/undocumented migrants.
2. Address regular pathways at regional/corridor level and internationally, where COOs can act collectively, and migrants, labour organizations, and other civil society organizations (CSOs) can support them to do so and not to cave to conditions in bilateral agreements (BAs) that are inconsistent with migrants' rights.
3. For transit and CODs to provide options and vital services for victims of migrant smuggling, including regularization, healthcare, and equal access to a decent work. For them to facilitate and coordinate with the COO safe and dignified return, if that is the option voluntarily chosen by the migrant.
4. Timely and accurate provision of information on migration pathways and realities of migration.
5. For states to effectively address the drivers of migration such as poverty, war/violence, persecution, and climate change as well as the root causes of migrant smuggling such as lack of regular pathways, exorbitant recruitment and/or migration costs, lack of information, among others.
6. Unwavering commitment and political will to ensure safe, orderly, and regular migration.

7. We also urge a wider and more constructive involvement of civil society in the United Nations Convention against Transnational Organized Crime (UNTOC) process. Due to the lack of consultation, CSOs are unable to fully access information on states' meeting their obligations under the UNTOC.
8. Further, civil society's engagements have largely been restricted to the last day of the review after governments' dialogue sessions and presentation of reports. This calls into question whether the inclusion of civil society was just to tick the box on multi-stakeholder engagement.

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MFA STATEMENT ON HUMAN TRAFFICKING



In a book on undocumented migrant workers written by one of our members and published by Penguin, he told a real life story of a trafficked woman who was forced to stay in a brothel as a halt in her trafficking route. She was forced to sleep with 'clients' but as she refused, she had to face severe torture. Her story is just one of the 40.3 million human trafficking victims estimated by the International Labour Organization (ILO). Human trafficking is defined by the United Nations Office on Drugs and Crime (UNODC) as “the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit”.

Another member in India facilitates the return and rehabilitation of 'migrants in distress' in general and missing migrants in particular. From their efforts in the last two decades, they experienced that every stage of cross-border human trafficking reproduces the vulnerabilities of migrants. Often, only the victims of trafficking face prosecution. Mostly, the victims would not be able to find regular employment opportunities in CODs and end up undocumented. Their labour and fundamental human rights are often violated but they are mostly reluctant to complain due to fears of having future visa applications denied, or of arrest, detention, and deportation.

Human trafficking victims do not need criminal charges and further violation of their rights. They are victims of deception and/or force who need crucial survivor support. Government, civil society, and other stakeholders must work together to extend critical services such as rescue, shelter, medical, legal, compensation, transportation, counselling and rehabilitation, certification and skills training, language translation, return and reintegration, among others.

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1. Full respect of human rights, regardless of migrant's status.
2. For origin, transit, and destination countries to ensure safe, orderly, and regular migration, particularly for this dialogue, the GCM Objective 10-“Prevent, combat and eradicate trafficking in persons in the context of international migration”.
3. For COOs and CODs to adopt rights-based bilateral labour agreements (BLAs) and ensure fair and ethical recruitment, including zero recruitment fees. Pre-departure orientation training (PDOT) and model employment contracts are also useful tools to ensure safe migration and prevent human trafficking.
4. For states to ensure rescue, protection, rehabilitation, and reintegration of human trafficking victims by extending crucial support such as shelter, treatment, legal, counselling, among others.
5. For states to stop the criminalization and detention of human trafficking victims and instead provide regularization options and safer pathways.
6. Full commitment and political will to eradicate human trafficking while prioritizing saving lives and protecting rights. For government to work and collaborate with CSOs and other rights advocates/defenders in eliminating human trafficking, especially in terms of awareness raising, policy making, monitoring, reporting, and providing remedies and essential services to survivors.
7. We wish for states to engage MFA members in the self-assessment process or consult civil society in the review process of laws and mechanisms. MFA members work extensively in labour migration in

more than 30 countries in Asia and the Pacific, even reaching migrant workers on the ground. Government engagement with civil society working on the ground can provide vital data, knowledge, and expertise to further enhance the government efforts to tackle transnational organized crime.

8. While we acknowledge that the primary aim of the United Nations Convention against Transnational Organized Crime (UNTOC) is to facilitate international cooperation amongst countries; at national level, CSOs play a crucial role in combatting human trafficking and forced labour. State level mechanisms to counter transnational organized crime cannot work without the cooperation of all parties involved including CSOs who are continuously working on rescues, providing shelter, to supporting migrant workers through various judicial processes. It thus defeats the purpose of UNTOC to not allow civil society's involvement in all the engagements of the UNTOC.

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