



## **Statement of the Global Migration Group on the Human Rights of Migrants in Irregular Situation**

*Principals of the Global Migration Group, assembled in Geneva on 30 September 2010, have adopted the following statement:*

The Global Migration Group\* (GMG) is deeply concerned about the human rights of international migrants in an irregular situation around the globe. Although the number of migrants without proper legal status in transit or host countries is unknown, they are estimated to be in the tens of millions worldwide.

Migrants in an irregular situation are more likely to face discrimination, exclusion, exploitation and abuse at all stages of the migration process. They often face prolonged detention or ill-treatment, and in some cases enslavement, rape or even murder. They are more likely to be targeted by xenophobes and racists, victimized by unscrupulous employers and sexual predators, and can easily fall prey to criminal traffickers and smugglers. Rendered vulnerable by their irregular status, these men, women and children are often afraid or unable to seek protection and relief from the authorities of countries of origin, transit or destination.

Children, especially those unaccompanied and separated, are particularly at risk. Furthermore, children can be banned from classrooms or denied their fundamental rights, even as their parents work and contribute to the economies of host countries and thus contribute to raising the standards of living and human development for those societies. Migrants in an irregular situation are often denied even the most basic labor protections, due process guarantees, personal security, and healthcare. Female migrants in these situations face greater risk of sexual exploitation, gender based violence, HIV transmission, multiple discriminations and specific challenges in access to employment, and health services, including reproductive healthcare. People who leave their own countries because their lives and liberty are at risk are often obliged to move in an irregular manner and find it increasingly difficult to seek and obtain refugee status.

Too often, States have addressed irregular migration solely through the lens of sovereignty, border security or law enforcement, sometimes driven by hostile domestic constituencies. Although States have legitimate interests in securing their borders and exercising immigration controls, such concerns cannot, and indeed, as a matter of international law do not, trump the obligations of the State to respect the internationally guaranteed rights of all persons, to protect those rights against abuses, and to fulfill the rights necessary for them to enjoy a life of dignity and security.

The fundamental rights of all persons, regardless of their migration status, include:

- The right to life, liberty and security of the person and to be free from arbitrary arrest or detention, and the right to seek and enjoy asylum from persecution;
- The right to be free from discrimination based on race, sex, language, religion, national or social origin, or other status;

- The right to be protected from abuse and exploitation, to be free from slavery, and from involuntary servitude, and to be free from torture and from cruel, inhuman or degrading treatment or punishment;
- The right to a fair trial and to legal redress;
- The right to protection of economic, social and cultural rights, including the right to health, an adequate standard of living, social security, adequate housing, education, and just and favorable conditions of work; and
- Other human rights as guaranteed by the international human rights instruments<sup>1</sup> to which the State is party and by customary international law.

Protecting these rights is not only a legal obligation; it is also a matter of public interest and intrinsically linked to human development.

The GMG calls upon States to review the situation of migrants in an irregular situation within their territories and to work towards ensuring that their laws and regulations conform with and promote the realization of the applicable international human rights standards and guarantees at all stages of the migration process. The GMG recognizes the difficulties many States face and stands ready to continue to support them in their efforts to ensure the effective implementation of appropriate legislation, including through capacity development.

The GMG further calls on States, civil society, the private sector, the media and host communities to address the demand side of trafficking and exploitation, to work actively to combat xenophobia, racism and incitement to discrimination in national politics and in public discourse, to protect all migrants, as well as to actively promote tolerant societies in which every person can enjoy his or her human rights, regardless of migration status.

The GMG continues to work with States, civil society and the social partners to address the obstacles faced by all international migrants, including those in irregular situations, to enjoy effectively their human rights. Further, the GMG will continue to support efforts to address the root causes of irregular migration by, among other things, promoting social and economic development to reduce migration pressures and the expansion of channels for regular migration. In addition, the GMG will continue to support prevention, cooperation and protection measures in respect of trafficking and smuggling of human beings.

The irregular situation which international migrants may find themselves in should not deprive them either of their humanity or of their rights. As the Universal Declaration of Human Rights states: “**all** human beings are born free and equal in dignity and rights”

*\*The Global Migration Group (GMG) is an inter-agency group bringing together 14 agencies (12 United Nations agencies, the World Bank, and the International Organization for Migration) to promote the application of relevant international instruments and norms relating to migration, and to encourage the adoption of more coherent, comprehensive and better coordinated approaches to the issue of international migration.*

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<sup>1</sup> Including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the ILO conventions on labour migration, the Convention Relating to the Status of Refugees, and others.