

**Joint NGO Proposal  
on Exploitative Migration and Human Trafficking**

Submitted to the G8 Heads of States  
on the Occasion of the Hokkaido Toyako Summit

*July 2008*

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### Introduction and Executive Summary

The undersigned NGOs appeal to the G8 Heads of States convened in Toyako, Hokkaido, Japan to take into serious consideration the responsibility of the industrialized regions, especially of the G8 States, towards the promotion of human rights and human security of transnational migrants. In particular, undocumented migrants, including those trafficked or smuggled, are subject to exploitative practices of cross-national criminal organizations, who profit from the restrictive and selective laws and practices of the countries of destination. This document has been drafted specifically for the occasion of the G8 Hokkaido Toyako Summit in July 2008, and involved the participation of a number of NGOs and scholars from Asia, Africa, Europe and Latin America. It focuses on global exploitative migration and on the human rights situations of migrants. We want to draw the attention of the G8 Heads of States to the situation of millions of migrants around the world, and to the need to take action and improve their situation.

We, the undersigned NGOs, call upon the G8 Leaders to recognize the seriousness of the human insecurity faced by the migrants whose plights are deeply connected with practically all the issues of the global economy under consideration at the Toyako Summit, be it on environment, on trade and finance, on international security and terrorism, as well as on other issues of global governance. The decisions of the G8 on this variety of issues will affect not only the citizens of their States but also the migrants who seek a better livelihood in the industrialized regions.

We appeal to the G8 Leaders to cease treating global migration only as a matter of inter-state mobility and trade in labor force, and try to understand the insecurity of the migrants themselves. It is essential in building a just and stable regime to recognize the interconnectivity among different forms of migration. The distinction between different forms of migration, skilled and unskilled, legal and "criminal", are developed by the states for their co-development, and migration is forced by fear and needs in the sending countries or by the seemingly rich and prosperous future awaiting migrants in industrialized regions. The G8 leaders are asked to recognize the failure of the current policies of industrialized states to stop "illegal" migration, and to curb the violation of the rights of migrants, who are forced to live in the "gray zone" unprotected by the State and the civil society. Dissatisfactory treatment of asylum seekers and irregular migrants in immigration detention centers is also a serious issue for the G8 Leaders who speak in the name of democracy, freedom and human rights.

We call upon the G8 Leaders to cease considering global migration as an object of control by legal and institutional means. As the concept of "natural migration" indicates, the different categories of migrants are only a construct of inter-State policies, especially of the highly selective immigration regulations. A commodified understanding of migration in the globalizing labor market develops a fragmented image of labor migration, and "natural migration" is affected by selective immigration regulations, reinforcing the structures of insecurity during the migration process and in the destination countries. All migrants must be able to exercise their fundamental human rights and benefit from minimum labor standards, and a minimum of socio-economic security in the countries of destination, especially the G8 countries.

As has been recognized by the international community on the occasion of the World Conference Against Racism in Durban, the exploitation of and discrimination against migrants and their communities are caused by a combination of gender-based and racist practices of discrimination. From trafficking in persons, especially women and children, to marriage migration, exploitation by brokers is often intensified by gender and racial prejudices of the State and of the civil society of the countries of destination, especially the industrialized States including the G8. A special

consideration about "Migration and gender" is indispensable because of the human insecurity accompanying the feminization of natural migration which presents a variety of problems that migrant women face. Health problems, domestic violence problems, educational problems and job security problems are matters to which the governments of the receiving countries are responsible to guarantee security. "Migration and racism including caste discrimination" is another issue area deserving special attention, since the minorities and indigenous peoples tend to be more the object of exploitative migration and trafficking. The eradication of all forms of exploitative migration cuts across countries of both origin and destination that perpetuate such practices, and should become a matter of concern for the G8 States in their negotiation with the developing countries of origin of the global migration they receive.

We, the under-signed NGOs, welcome the interest paid to the problems of global warming and climate change by the G8 in the Toyako Summit. We call upon them not to limit their deliberation to technical issues regarding CO2 or to the transfer of Environmental technologies to developing countries, but to take into serious consideration the support of all the victims of climate change but especially of the environmental migrants. A serious consideration about the issues regarding "Climate change and vulnerable people, including environmental migrants" is essential, since natural disasters and the climate change that affect the basic elements of life for people around the world make people move and become vulnerable to the risk of trafficking and other forms of exploitative migration.

Since the G8 Summit will discuss diverse issues regarding conflict and natural calamities, it is essential that they focus their attention on the questions regarding "Migration, conflict and natural calamities." The problems faced by refugees and other migrants, displaced by environmental change or by conflicts across borders, as in the case of the Burmese/Myanmarian refugees, deserve to be addressed by the international community, which must protect migrants in these situations.

Health and education of the migrants deserve to be taken into consideration by the G8 Leaders at the Toyako Summit, even if these issues are not specifically mentioned in their agenda. "Migration and health" must primarily address the health insecurity of the migrants themselves, but also concerns the global public health policy problems as mentioned in the UN Millennium Development Goals. From the point of view of the health security of migrants themselves, special attention should be paid to the problems of health care of irregular migrants throughout the process of migration and in receiving countries, with special focus on health care for women, victims of trafficking and displaced people. As to "Migration and education," also included in the UN Millennium Development Goals, the negative impacts of selective immigration laws and policies should be reduced through the fulfillment of the right to education in developing nations and for migrant children and victims of trafficking/smuggling.

It is on the basis of the above considerations that we, the under-signed NGOs, wish to make the following recommendations to eliminate all forms of discriminatory practices causing exploitative migration and human trafficking, and on the protection of migrants' rights.

**I. Specification of concepts and broader interpretation of the definition of trafficking victims**

**II. Aid for developing countries**

**III. Fight gender, race, caste and class based discrimination**

**IV. Protection of migrants due to environmental, climate changes and conflict**

**V. More opportunities of regular migration**

**VI. Protection of the rights of migrants, especially undocumented and victims of trafficking**

We call upon the G8 Governments to consider the above six recommendations and take further steps to protect the human rights and security of migrants. In doing so, the G8 Toyako Summit will show that it recognizes the responsibility of the countries of destination of global migration and manifest the political will of the industrialized Powers to build a sustainable world in harmony not only with nature but also with the peoples of the world affected by the growing gaps caused by the polarizing effects of the neoliberal global governance. To ignore the human

insecurity of the migrants and of their communities in the industrialized North will seriously damage the credibility of the G8 Summit in proclaiming their commitment to democracy and development, and their willingness to build a sustainable world order.

We hope that this introduction and executive summary will induce a careful reading of this document and a serious study of the recommendations made by us, representing the world community of citizens concerned by the human insecurity accompanying global migration.

July 2008

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*Cameroon Grassroots Women Educational, Economic and Social Advancement Network (CAGWEESA), Cameroon*

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*South Asia Forum for Human Rights (SAFHR)*

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*Third World Movement Against the Exploitation of Women (TW-MAE-W)*

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\* The organization signed the document after submission to the G8 Heads of States

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## Part 1: General Analysis and Crosscutting Issues

### 1.1. The Interconnectivity among different forms of migration

Migration is complex in nature, and it is difficult to draw a clear line between different categories of migrants and different forms of migration. People who move across international borders are described as having regular or irregular status and as being skilled or unskilled workers, permanent settlers or temporary migrants, as well as student migrants, family reunion migrants, marriage migrants, transit migrants, asylum seekers or refugees. An individual migrant may belong to one or more of these categories at the same time and may move from one category to another in the course of a migratory movement. A migration process may start off by being safe and regular, become unsafe (but not necessarily irregular), and after a certain lapse of time end up with the migrant holding an irregular status. Migration may be freely chosen or forced upon the migrant as a means of survival (e.g. during a conflict, an economic crisis or an environmental disaster). A few more examples include: a migrant can enter a country in an irregular fashion, but then regularize their status, for example by applying for asylum or entering regularization programs, or by getting married to a citizen of the country. Asylum seekers can become irregular migrants when their application is rejected and they stay in the country of application without authority. And migrant smuggling can transform into human trafficking.<sup>1</sup>

Here, we should not forget the fact that all these different categories of migrants are, in the first place, not pre-existing entities but are products of state policies, specifically of the national immigration control systems. Just as the concept of a "criminal" presupposes the existence of criminal law, a woman or a man is not an "irregular migrant" by nature. Rather, it is the destination country's policy letting in lawfully only those foreigners who meet specific conditions that – unilaterally and arbitrarily – categorizes her or him as "irregular." The same can be said to a greater or lesser extent for other "groups" of migrants mentioned above, and it follows that the distinctions between different categories are artificial and essentially fluid, thus not necessarily fitting in with the reality.

It is precisely for this reason that it is difficult from the beginning to draw a clear-cut line between different forms of migration. As a natural consequence a number of "gray areas" are created, and state policies often fail to address the interconnectivity among different forms of migration. Moreover, often migrants' rights are violated in those "gray areas".

#### *The distinction between irregular migration, migrant smuggling and human trafficking*

Two United Nations (UN) protocols attempt to establish a distinction between migrant smuggling and human trafficking. Trafficking in human beings is defined as: "The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat, or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".<sup>2</sup> The smuggling of migrants is defined as: "The procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state Party of which the person is not a national or a permanent resident".<sup>3</sup>

Trafficking involves coercion, and smuggling involves consent. However, the distinction between coercion and consent is very thin and complex. The trafficking protocol defines coercion to include not only force (e.g., kidnapping) but also "the abuse of power or of a position of vulnerability." The latter, however, is not defined, and it remains to be seen whether states and courts will interpret it as including extreme poverty. If they do not, then the political point of

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<sup>1</sup> Global Commission on International Migration (2005) Irregular migration, state security and human security, p.7 and Anti-Slavery International (2003) The migration-trafficking nexus: combating trafficking through the protection of migrants' human rights, p.3

<sup>2</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000) Article 3

<sup>3</sup> UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2000) Article 3

expanding the concept of coercion beyond mere physical force, fraud, or deceit could be lost.<sup>4</sup>

The protocols contain no guidance on how trafficked persons and smuggled migrants are to be identified as belonging to either of these categories. The regime created by the two protocols (whereby trafficked persons are accorded greater protection and therefore impose a greater financial and administrative burden on States Parties than smuggled migrants) creates a clear incentive for national authorities to be tempted to classify or identify irregular migrants as having been smuggled rather than trafficked. The possibility of individuals being wrongly identified was not even considered during the drafting process. Nor was there any acknowledgement of the fact that someone can be a smuggled migrant one day and a trafficked person the next.<sup>5</sup>

Both concepts are clearly interrelated, and their consequences in terms of migrants' rights and vulnerability may be very similar. Rarely are there "pure" cases of one or the other. At the point of departure and at multiple stages of the journey, it may well be unclear which category of irregular migration is at issue - trafficking or smuggling.

Often, smuggled people willingly leave without legal papers in hope for employment and to meet their survival needs in destination countries, i.e. migrate in an irregular way. They are assisted by a smuggler who facilitates illegal entry into a country for a fee. The smuggler may demand an exorbitant fee and may expose the migrant to serious dangers in the course of their journey, but on arrival at their destination, the migrant is free to make their own way and normally does not see the smuggler again.

Meanwhile, trafficking involves the movement of people for the explicit or implicit purposes of exploiting their labor or services. However, the available evidence suggests that most transported undocumented migrants consent in some way to an initial proposition to travel in the same way as smuggled migrants, but that, en route or on arrival in the destination country, circumstances frequently change. For most trafficked people it is only once they arrive in the country of destination that their real problems begin as the work they were promised does not exist and they are forced instead to work in jobs or conditions to which they did not agree. They become trafficking victims when they are held in slavery-like conditions, in very harsh working environments, and without receiving wages due. However, those people are often not categorized as trafficking victims. At what point should the decision about how to characterize the conduct be made? States tend to favor the point of departure as an indication of the migrant's "true intentions". Rights advocates favor the time of arrival or stay as an indication of the migrant's needs. Yet, the state's perspective usually wins. The states have established screening systems to fight illegal migration and curb the growing influence of organized criminal groups, but legal measures restrict protection only to those who fit standard narrow interpretations of "victim," which can very much be subjective depending on the individual and circumstances. Those who willingly migrated without legal papers and assisted by smugglers, are often categorized as irregular migrants, not taking into consideration the broader context and experience of trafficking in the destination country. Legal measures leave aside those in the "gray zone", or worse target them for punishment. Trafficked persons who are victims of crimes are simply treated like smuggled persons - as violators of immigration laws. They are detained and deported.<sup>6</sup>

### *Asylum and irregular migration*

It is important to separate out asylum from the broader debate on irregular migration. Asylum seekers and refugees may resort to migrant smugglers, and they may undertake irregular secondary moves following the failure of their initial move. Asylum seekers may become irregular migrants in the destination country, if their asylum application is rejected, but they stay in the country because they cannot, or will not, return to their nation of origin. They may end up working in the informal economy and thus run the risk of being exploited and even become victims of trafficking. At the same time, people not in need of international protection may resort to asylum channels in the hope of gaining

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<sup>4</sup> Bhabha, Jacqueline (March 2005) Trafficking, Smuggling, and Human Rights

<sup>5</sup> Gallagher, Anne (January 2002) Trafficking, smuggling and human rights: tricks and treaties, *Forced Migration Review*, Issue 12, pp.25-28

<sup>6</sup> Bhabha, Jacqueline (March 2005) Trafficking, Smuggling, and Human Rights and Anti-Slavery International (2003) *The migration-trafficking nexus: combating trafficking through the protection of migrants' human rights*, p.3 and Asia Regional Cooperation to Prevent People Trafficking (2003) *Gender, Human Trafficking, and the Criminal Justice System in Cambodia*, pp.16-17

temporary or permanent stay abroad. As a result of these sorts of convergences, the line between irregular migrants and asylum seekers and refugees has become increasingly blurred in the media and the public mind, as has the distinction between migration control and refugee protection.<sup>7</sup>

### *Asylum seekers and irregular migrants in immigration detention centers*

Analyzing the situation of asylum seekers and irregular migrants, we have to mention that living conditions in the immigration detention centers in Europe and in other developed parts of the world fall short on global human rights standards, face problems in terms of provision of adequate legal assistance, health care and respectful treatment for detainees. For instance, in the UK detained asylum seekers and irregular migrants have complained that they were subject to verbal abuse including racist, and other derogatory comments by the staff of the immigration detention centers as well as inhumane and aggressive treatment. Some detainees have reported that they have suffered injuries in detention at the hands of escort companies and detaining centers, that they have been shunted from one detention center to another during the night and without any prior notification, and that they have been kept for hours in the back of vans.<sup>8</sup>

Moreover, cases where detainees have not received adequate medical care for ongoing illnesses have been reported in the UK. Some detainees have not been able to express themselves properly due to the insufficient provision of interpreters. Access to external secondary health services is often not provided. Reports by advocacy groups working with detainees claim that mental health services are rarely of good quality, and referrals to specialist mental health services are limited and inconsistent. Moreover, access to adequate nutrition and medical care is limited for pregnant women in detention, which may be damaging for their physical and mental health alongside the health of their fetus.<sup>9</sup>

### *Trafficking and regular migration*

All trafficking cannot be tackled as an organized immigration crime as people are trafficked through regular migration channels. For example, cases of nurses, agricultural workers and migrant domestic workers have all been documented in which the individuals entered with the correct visas, but were then subjected to forced labor, most commonly through the removal of their documents and/or debt bondage. Similarly, there are many trafficked people, especially in the Western part of the European Union (EU), who come from Central or Eastern European Union states or have EU passports (e.g. Lithuanians in sexual exploitation).<sup>10</sup> The focus is on irregular migration, and the situation of regular migrants who are trafficking victims, is often overlooked.

It is difficult to clearly differentiate between regular migration and trafficking. In general, though the movement or mobility is a common element of trafficking and regular migration, it is the presence or absence of coercion, exploitation, abuse, loss of control on life options (or agency) that could be considered as determining factors. Absence of these makes a person's movement regular migration and the presence of some or all of these, trafficking. The presence of exploitation or violations of rights are trafficking outcomes irrespective of the nature of mobility. The two phenomena are further complicated as people continue to move from regular to irregular situations and vice-versa. Therefore generalizations in identification of the differences between the two concepts can be misleading.<sup>11</sup>

### *Conclusions and recommendations*

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<sup>7</sup> Global Commission on International Migration (2005) Irregular migration, state security and human security, p.6 and IMISCOE (2007) Inside Perspectives on the Process of Human smuggling, p.5

<sup>8</sup> Amnesty International (June 2005) United Kingdom. Seeking asylum is not a crime: detention of people who have sought asylum

<sup>9</sup> Bail for Immigration Detainees (May 2005) Fit to be detained? Challenging the detention of asylum seekers and migrants with health needs; Bail for Immigration Detainees, Maternity Alliance, the London Detainee Support Group (September 2002) A Crying Shame: pregnant asylum seekers and their babies in detention; and Independent Asylum Commission Information Centre about Asylum and Refugees (2007) Detention of asylum seekers in the UK

<sup>10</sup> Anti-Slavery International (2006) Anti-Slavery International's views on Tackling Human Trafficking - Consultation on proposals for a UK action plan

<sup>11</sup> Hague, Shahidul (2005) Ambiguities and confusions in the migration-trafficking nexus: a development challenge, p.5



The link between irregular and regular migration, smuggling and human trafficking, irregular migration and asylum is a sensitive one. Migration policies fail to deal with the interconnectivity and complexities of issues involved among different forms of migration, and with the “gray zones” between them. As a consequence rights of migrants are violated. There is need to consider these issues together and take “gray zones” into consideration in migration policies and mitigation strategies. Policies should not overlook the initial contexts in which migrants have made the decision to migrate and how the situation developed.

There is need to further specify concepts of trafficking and smuggling, links between coercion and consent, and for the states to acknowledge that migrants’ status can change over space and time. For instance smuggled migrants can become trafficking victims in the course of migration and they have to receive protection as trafficking victims. There is need for broader interpretation of the definition of victims of trafficking. Responses to trafficking must be through a broader prism than organized immigration crime otherwise many trafficked people will not be identified and assisted. There is need to focus on the exploitative outcomes of trafficking in order to incorporate all aspects of trafficking.

Moreover, adequate attention should be paid to the protection of victims of trafficking, who migrate through regular channels and with proper visas. Those groups are often overlooked.

Finally, it is also important to reinforce that asylum seekers and refugees do not lose their protection needs and entitlements just because they are part of a mixed migrants flow, and sometimes difficult to distinguish from other migrants. Also, detention of asylum seekers should be avoided. If detained, both asylum seekers and irregular migrants should at least be treated properly in immigration detention centers and receive necessary health treatment.

## 1.2. "Natural migration" and selective immigration regulations, migration and the labor market

The globalization process has transformed the world: it has created big wealth and has lifted millions of people out of poverty. But the impact of globalization has been uneven, and growing disparities are found in the standard of living and level of human security available to people in different parts of the world. Many developing countries are struggling to cope with high levels of demographic growth and are failing to create enough jobs for the millions of people. Many people from developing countries work in the informal sector of the economy, where wages and working conditions are unregulated. Besides, many people continue to live in countries characterized by poor governance, low levels of human security, corruption, authoritarianism, human rights violations and armed conflict. They suffer from wars, macroeconomic crises and climate changes.

Given these conditions, it is not surprising that many people in developing countries are looking for alternative employment opportunities and better life elsewhere, in what we can call the "push factors." While many continue to move within the developing regions, a growing proportion are moving to find work in the world's more prosperous states especially the G8 countries.

On the other hand, there are many "pull" factors in developed countries that encourage migration. Migrants who move from lower to higher income economies are often able to gain an income that is much higher than they would be able to gain at home. And the demand for migrant labor is strong: a flexible labor force that is prepared to work for low wages and under difficult conditions is needed as well as skilled labor. Even in the long-term, it will be difficult for Western firms to recruit required labor force on their local labor markets. Besides many of the world's most affluent societies have low and declining birth rates, and as a result their populations are becoming progressively smaller and older. Migrants can help to maintain existing levels of economic productivity, to sustain their pensions and social security systems, and provide care for the elderly. Developed countries can also protect migrants from market volatility, political crises, armed conflicts and other risks, and these are also significant "pull" factors.

### *Restriction of access and selective immigration policies*

When moving from one country to another people are confronted with a wide range of official controls. Governments in developed countries are often concerned that by facilitating the entry of foreigners to the national labor market they will reduce employment opportunities for citizens, offend public opinion and lose electoral support. Indeed in many societies, citizens are expressing concerns about the arrival of people from other countries and cultures, and media report stories related to migrants and migration, many of them focusing on the more sensational and negative aspects of the issue. As a consequence governments are pushed to raise entry barriers.

Of course, governments do not close the doors completely and not to all migrants. Developed European countries as well as the USA, Australia and Japan offer labor immigration programs to skilled persons.<sup>11</sup> IT workers, executives, managers and other highly qualified persons increasingly enjoy more flexible entry and residence provisions, easier transition to longer term and permanent residence, spousal work rights, change of employer, or entry without guaranteed employment. Selective immigration policies are a common trend in developed countries. To name a few, "Points system" in Australia and Canada and "Green card" in the US can be mentioned. The European Commission is developing "Blue card" scheme with the aim of attracting highly skilled immigrants to the European Union (EU).<sup>12</sup>

There are many reasons why governments in developed countries choose selective immigration policies. One of them is the concern of developed countries, especially the European countries with generous welfare states, about a potential burden on the welfare state caused by unskilled and low skilled workers, and fear that they would be net recipients, i.e. they would contribute less in taxes over their lifetimes in the host country than they take out in benefits.

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<sup>11</sup> Skilled labor first of all refers to workers who have had long periods of formal training, such as managers, professionals, semi-professionals/technicians and trades persons

<sup>12</sup> Cendrowicz, Leo (24 October 2007) A Green Light for Europe's Blue Card, Time

Moreover, there is concern about competition between foreigners and natives for jobs and loss of jobs by low-skilled natives as a consequence. Instead, skilled migrants are in growing demand to fill positions in high-value and knowledge-based sectors of the economy that are currently confronted with a global shortage of appropriate skills. It is expected that highly educated immigrants will be large net contributors. It is also assumed that the stock of unskilled immigrants enters negatively the utility. Skilled immigration, on the other hand, has smaller figures and creates less concern. Western European countries also justify their choice of selective immigration policies by the eastward expansion of the EU. The EU has progressively opened the door to poorer new EU countries whose populations have low skills and high incentives to migrate to the richer parts of the EU, and as a consequence immigration of the low-skilled increased. Therefore the pressure grows to restrict low-skilled immigration from outside the expanding borders of the EU.

### ***Lack of regular migration opportunities, growing irregular migration and the problem of human insecurity***

As a consequence of selective immigration policies, there is lack of regular migration opportunities to the low-skilled from developing to developed countries. In the situation of a lack of regular migration opportunities, irregular migration grows. A lack of jobs and other livelihood opportunities in countries of origin push people to look for employment abroad, and if they cannot do it in a regular way, they often choose irregular migration, and in the worst case become vulnerable to human trafficking.

Moreover, even though many developed countries have to deal with a problem of unemployment especially for the unskilled or low-skilled natives, at the same time there is anyway demand for cheap and flexible foreign labor. And when there is demand and supply, natural migration is not possible to stop. As the United Nations Special Rapporteur on the human rights of migrants has pointed out, "migration is a rational and reasonable behavior; people move to where opportunities are and where they can find a better life. It is also an inherently international issue. Thus, any policy that relies on unilateral means to curb "natural migration" will never be successful".<sup>13</sup> Mere closing and securing borders is no effective and surely no adequate solution. Even though industrialized states have devoted much attention and resources to stem irregular migration, success has been limited. On the other hand, one should be careful in estimating the developed countries' attempts in fighting irregular migration. While officially declaring a fight against irregular migration, some of the industrialized states have met part of their need for additional labor by partially turning a blind eye to the employment of migrants with an irregular status.<sup>14</sup>

Pursuing selective immigration policies only benefit skilled labor migration, while aggravating the human insecurity of undocumented migrants. While they are in transit, migrants who move in an irregular manner often find themselves exposed to multiple danger, and efforts to prevent irregular migration further jeopardize the welfare of such migrants. There are many reports of suffocation in cargo crates, drowning at sea, freezing in airplane undercarriages, rape and sexual abuse in transit.

Human insecurity is a particularly big problem in the case of human trafficking. Human insecurity is caused not only by traffickers, employers of victims and their clients, but by the state as well. Trafficking victims live under constant fear of being repatriated by the immigration authorities when they are trafficked under undocumented status. The intervention of the state in the informal sector is often limited to the control and punishment of criminal organizations. In the fight of the state against transnational criminal organizations the insecurity of workers is caused by the constant surveillance and punitive campaigns in which they are mixed with and often treated as if they themselves were criminals, in spite of the fact that they are the victims of criminals. Victims are arrested more often than the criminals.

Furthermore, irregular migrants are very vulnerable to exploitation in the labor markets in destination countries. In

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<sup>13</sup> Special Rapporteur of the Commission on Human Rights on the human rights of migrants (September 14, 2006) Press release "We have been excluded from the High Level Dialogue"

<sup>14</sup> Global Commission on International Migration (2005) Migration in an interconnected world: New directions for action. Report of the Global Commission on International Migration

case of irregular migration even their basic human rights are not ensured, and there are numerous human-rights violations—deaths, enslavement and gross exploitation.

### *Conclusions*

People should migrate out of choice and in a safe and legal manner, rather than irregularly and because they feel they have no other option. However, in the present globalized world people often chose to migrate through irregular channels because there is demand for their labor in developed countries, but there are few possibilities of regular migration. Such migration channels create a very negative image of irregular migrants in the general public of developed states. However, we would like to stress that it is not fair to put all blame on irregular migrants. Irregular migration is a structural problem facilitated by demand for and acceptance of such labor by the destination states. The solution to the problem of irregular migration lies first of all in offering adequate provision and effective allocation of aid to developing countries and creating more regular migration programs rather than simply attempting to secure borders or punishing irregular migrants.

In fact, promoting political and economic stability of the sending countries may be more effective than entry barriers. Aid for developing countries is one of the most effective ways to deal with irregular migration and brain drain from developing countries. Therefore aid for the developing countries (ODA) should be increased at least to the United Nations recommended figure of 0.7% of GNI. This aid should be redirected to improving conditions in developing countries and in this way diminishing migration incentives. So far the only countries to reach or exceed the United Nations target of 0.7% of GNI are Sweden, Luxembourg, Norway, the Netherlands and Denmark. Regrettably, none of the G8 countries appear here. For example, in 2006 the ODA/GNI ratio for The United States was only 0.17, for Italy it was 0.20, for Japan 0.25, for Canada 0.30, for Germany 0.36, for France -0.47 and for the United Kingdom -0.52.<sup>15</sup> Moreover, we would like to emphasize that developing countries need first of all grants and not loans. More aid should not lead to more debt for developing countries.

Migration has become a global phenomenon which will not just vanish because of the desire of receiving governments to control or banish it. In so far as economic disparities continue to exist as throughout history, people will always move in search of greener pastures. There is a need for a comprehensive or holistic approach to the issue instead of one stop fixes which are always counter productive. Governments need to move from policy mantras to effective programs to curb global poverty. Yesterday it was health for all by the year 2000; today it is the Millennium Development Goals which to all extent and purpose remain an illusion as the necessary political will is not there.

Moreover, developed states should consider making more regular migration opportunities available, especially for unskilled and low-skilled people, and to establish clear and transparent criteria for the recruitment of foreign workers. The Global Forum on Migration & Development in 2007 urged countries of origin and destination to enter into a dialogue about the establishment of additional temporary labor migration programs, thereby allowing individuals from the former states to work in the latter for a fixed period and under agreed conditions. The Forum claimed that available temporal migration programs for low-skilled and unskilled people could open the doors at least to some migrants and enable a better achievement of a match between the supply and demand for migrant labor and in this way diminish a stream of irregular migrants.

This is an adequate proposal. However, as was pointed out by many civil society organizations, we must prevent the international community from developing an international regime aimed only at promoting co-development of the sending and receiving countries of international migration without taking into consideration the rights, security and the development of all the peoples involved in “natural migration”. The countries of destination of migrants, including the G8 countries, should assume full responsibility for the security and well-being of Diaspora communities, and treat migrants not as a commodity or liability in the free trade market but as human beings and holders of all fundamental rights, including sexual and reproductive rights, the right to education and development. Migrant children must not be

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<sup>15</sup> Global Policy Forum (April 3, 2007) Development Aid from OECD Countries Fell 5.1% in 2006

the object of any kind of discrimination, and must be recognized as full members of the country they migrated into in search of security and prosperity.

All migrants must be able to exercise their fundamental human rights and benefit from minimum labor standards in accepting countries. Developed countries should protect not only documented, but also undocumented or irregular workers and their families living within the jurisdiction of the state, and grant help to victims of trafficking and smuggling, but not punishment. In this connection, it is noteworthy that still not all the G8 countries take sufficient counter-trafficking measures even today. For example, in the U.S. State Department's latest annual report on human trafficking, Japan – the host country of the 2008 G8 Summit Meeting – and Russia were ranked "Tier 2". The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) should be ratified by all member states of the United Nations without further delay or procrastination. Migrant women and the children of migrants, especially those undocumented, should be guaranteed on an equal footing, all the rights and freedoms enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Rights of the Child (CRC), and all the relevant ILO Conventions.

### 1.3. Migration and gender

#### *The feminization of migration and the "gray zone"*

The current wave of the feminization of migration came about in the 70's when developing countries began to systematically promote the "export of manpower" in two types of care workers, namely, domestic helpers and entertainers (usually a euphemism for sex workers or prostitutes). It could be said that in the background of this trend was the growing demand for house workers and entertainers in the industrialized world, where the status of women is high and there are relatively few local women available in the sex industry, and where more women seek their career outside the house. Lately, as care systems in the North began to be privatized in the face of an increase in the population of aging people, and at a time when welfare states were receding, the categories of overseas care workers have expanded to include caregivers, nurse aids and nurses themselves. It is not out of the ordinary to have so-called "permanent overseas contract workers" from countries such as the Philippines. This simply means that a worker is caught in a chain of temporary overseas work contracts that make her end up working abroad for as long as 15 to 20 years. In some cases, legally recruited overseas contract workers may switch to less legal forms of employment while they are abroad.

There are other types of migration that place mass numbers of women in the "gray zone." As education is globalized, more young women from middle class families in the South have gone abroad for studies but also engage in part-time work while in the foreign schools. Also, private corporations have cashed in on the increased propensity of people to travel by introducing such practices as "on the job training" with which they are able to circumvent immigration and labor laws in their base countries. In Asia and elsewhere where there are conflicts, the crossing of borders by displaced women and children had become an ordinary occurrence.

Through all of these motivations and forms of migration, an entire network of entrepreneurs has come into existence. Many of these are illegal recruiters and traffickers who bleed dry the already poor and helpless migrants. There are migration entrepreneurs who are legal but engage in illegal activities. There are other migration entrepreneurs who are completely illegal who prey on desperate women victims. Physical and sexual abuse and slavery of women migrants are known to exist.

The search for higher incomes from overseas work is part of a chain of livelihood strategies among ordinary women from the South, who otherwise cannot find decent work in their home economies. Going abroad may also be regarded as a means for achieving security somewhere away from one's place that is filled not only with economic insecurity but also political and social turmoil, as well as cultural subjugation. Furthermore, given the highly restrictive immigration and work policies in countries of destination, women migrant workers have been forced to enter the "gray zone" to be able to continue with their survival strategies. The division between "good" and "bad" migrants in policy circles, which has also seeped into academic efforts on understanding migration, has only left the migrants divided and more vulnerable.

A neo-liberal governance system where the rule of the market and individualism prevail in economic, political, social and cultural thinking, will only fragment, disempower and penalize migrants. Unless a global governance system recognizes the interconnectivity of peoples through a recognition and reconciliation of the principles of human security and individual rights, migrant workers will remain at the mercy of exploitative mechanisms and processes whether they are found in "legal" spaces or in so-called "gray zones".

#### *The insecurity of women migrants in the "gray zone"*

The human rights and human security of many undocumented women migrants in the "gray zone", which is where the undocumented migrants live, is not ignored by the international community, in the sense that since the 1990s there has been an international effort, supported especially by the industrialized countries represented in the G8

summitry where the major countries of destination exercise their global governance and organize an international effort to fight trafficking and smuggling. After having been discussed in several G8 summits, the matter was taken up by the UN system, resulting in the creation of an international legal framework: the Transnational Convention against Organized Crime, to which a Protocol on human trafficking is attached. This has also been supported by the adoption of a national anti-trafficking policy by the United States which publishes annual reports assessing different governments' performance in fighting trafficking of persons, classifying them into three tiers. However meritorious, these measures have focused on penalizing brokers and guaranteeing only the minimum rights of the victims, and have not been addressing the chronic state of insecurity they experience inside the "gray zone", where the state operates only to the extent that the citizens' security is under threat. The case of the victims of human trafficking is the most acute one which has drawn the attention of the international community, but has been addressed only in an insufficient manner, as far as the human insecurity of the victims is not completely eliminated.

The World Bank Report of 2007 estimates the number of victims of cross-border trafficking as 600,000 to 700,000 annually.<sup>16</sup> The US Government-sponsored survey of 2006 estimates the number of women and children trafficked across national borders as 800,000.<sup>17</sup> The majority of the victims are women. Between 2001 and 2005 they constituted 81% of the victims, with 71% aged between 14 and 25. Most of the young girls had been recruited personally or through media advertisement. Although no precise statistics exist, it is estimated that there are annually about 70,000 women and children from South and South East Asia who are victims of trafficking. About 50,000 women and girls are trafficked into the United States for the purpose of sexual exploitation.

### *The case of Filipina entertainers in Japan*

The example of Filipina entertainers migrating to Japan gives us a general idea about the human insecurity experienced by trafficked women, since they experience similar situations especially in countries of destination where they are exploited in the sex sectors of the industrial regions.

The number of Filipinas migrating to Japan as entertainers increased through the latter half of the 1970s. This trend was part of the feminization of migration which accompanied the globalization of the world economy. The Filipinas worked as "entertainers" in Japan and sent their remittance to their family back home. As a matter of fact, their remittance played a major role in sustaining the economy of the Philippines. It is said that one Filipino migrant worker supports the life of five fellow country people, and that about 40% of the total population of the country benefit from the money sent back home by them.<sup>18</sup>

To support overseas employed migrant workers, and the acquisition of foreign fund and technology, the Government of the Philippines created the OEA (Philippine Overseas Employment Administration) in 1982. The remittance of the migrants became the major source of foreign currency for the Philippines. This country was affected by the Asian financial crisis in 1998 when the bankruptcy of many small industries created unemployment for the working population. Migration was one outlet, with about 760 thousand migrant workers sending 7,600 million US dollars' remittance back home, the largest remittance figure in the country's history, which constituted 16% of the foreign currency income of the Philippines. Their number was three times larger than the domestic job increase of the time, which was only a little more than 2,000 jobs.

The Philippine migrant workers in Japan contributed to this general trend, and the sum of their remittance continued from January to September of 2001 the remittance amounted to USD 289,463, and in the same period of 2002 it had increased to USD 354,978. This sum comes third amongst Philippine migrant remittances, following the USD 654,631 from the United States and USD 442,336 from Saudi Arabia. Japan is followed by Hong Kong, United Kingdom, and Singapore.<sup>19</sup>

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<sup>16</sup> World Bank (2007) The World Bank Annual Report 2007

<sup>17</sup> US Department of State (2006) Trafficking in Persons Report, p.6

<sup>18</sup> Satake, M. et al.(2006) *Firipin-nippon kokusai kekkon: jjuu to tabunka kyousei* (International marriage between the Philippines and Japan: migration and multiculturalism), p.25

<sup>19</sup> *ibid*, p.27

In 2006, the then United Nations Special Rapporteur on Trafficking in Persons Ms. Sigma Huda reported that the Filipinas had entered Japan to work lawfully in accordance with their visa as performing actors, but had been forced by the brokers to work in other places where they found that they have been trafficked. However, they were repatriated as trafficked women under different pretexts including breaking the Immigration Control Act and holding invalid documents. The Filipina entertainers are clearly victims of trafficking according to the definition given by the UN Protocol, because they are exploited sexually and commercially after having been deceived by brokers, forced to work in the sex industry which is against their contracts, and to perform illegal sexual activities, in many cases as a means to repay their so-called debts.

### *The reproductive rights and security of women migrants*

In general, victims of exploitative migration have insecurity built into their biological reproduction as well as in provisioning for their caring needs. This is an important aspect of the insecurity that many trafficked women and children experience. The international human rights community, represented in the UN Human Rights Council and its predecessor, the Commission on Human Rights, has been overlooking it. The latter has long been concerned with violation of the rights of trafficked women and children and the violence they endure. However, they ignore reproductive security, because their attention is focused on criminal organizations and human rights violations. They also overlook not only the biological reproductive rights of the victims of trafficking but also the rights of their children.

### *The plight of the Japanese Filipino Children (JFCs) and support movements*

In the case of the Filipina entertainers in Japan, much of the insecurity of the survivors is caused by the fact that many have had sexual relationships with their Japanese customers and other Japanese men, sometimes marrying them formally, and have had their children. Their insecurity increases due to the lack of legal protection for themselves and their children. The latter are discriminated against as "mixed blood" Japanese Filipino Children (JFCs). JFCs suffer all the more since their fathers frequently fail to live up to their obligations to offer parental support. JFCs are deprived of protection by the state, and also become the object of discrimination by their society.

This is why the problem of JFCs has become so serious that it is now the object of support and caring activities by civic movements both in the Philippines and in Japan. Cooperation between NGOs and politicians of the two countries began in 1993, and since then joint activities are developed to find the Japanese fathers and to have them recognize their responsibility toward their partners and children. Quite a number of lawsuits have been successfully conducted, but more cases continue to come up. Voluntary legal support and fundraising to permit the entertainers to return to Japan to testify in court is currently conducted by NGOs in both countries. The Government of the Philippines has paid increasing attention to this problem, to the point of making it a matter of interstate negotiation with Japan.

However, when the problem is addressed it is mainly in terms of private law or of humanitarian interstate cooperation, and is not connected with the rights of reproduction and of socioeconomic security of the victims of exploitative migration. To develop an adequate legal regime covering this aspect of exploitative migration is indispensable. The JFC case is not unique and other cases are ignored because of the occultation process that surrounds this aspect of exploitative migration. There are many cases of Japanese-Thai children lacking support, despite the growing attention by civil society and the governments of both Thailand and Japan about trafficked women and children. Their right to reproduction and socioeconomic security is entirely ignored. It is very likely that similar cases exist in other regions.

It is important here to realize that this type of insecurity is a direct consequence of their exclusion from the institutions associated with welfare and other forms of care, in both their country of origin and in the country where they are exploited. In addition, they are often treated as "illegal immigrants" devoid of civil rights, as both the sending and receiving society reject them. Their children suffer from social stigma and racial prejudice.



## 1.4. Migration and racism including caste discrimination

### *General analysis and crosscutting issues*

The migrants from different developing countries often meet serious discriminations based on Racism including Caste discrimination, i.e. discrimination based on work and descent. The situation exists also in Africa and Latin America, but we will take one typical example from South Asia in order to present a sharper and livelier report on this important issue. Nepal provides a typical example of the essential problems existing in other regions, and the following lines can be applied, *mutatis mutandis*, to quite similar problematic situations in other developing regions.

In Nepal, class, caste and gender discrimination have largely impacted the migration process and the outcome of migration. Although migration is well accepted in the country, the acceptance is not homogenous. The acceptance and societal view on particular migrants depends on the class, caste, gender and type of work the migrant is engaged with. Migrants from the higher class and caste (including Indigenous and *janjatis*), men and those working in the security sector and other forms of white collar jobs (as first migration started with recruitment within the British army) are socially recognized and graded as upper class migrants (in this sector there is not much division about the caste, but it depends on what type of work that particular person is engaged with). Whereas migrants working in different wage earning work (agricultural workers, working in other forms of the informal sector, usually people from the lower class and caste are engaged in this type of work) are taken as lower than the norm. It is worse when it comes to the migration of women. The majority of women migrants are considered to be engaged in degraded forms of labor or in prostitution. This, together with the societal view on people from the lower class and caste, means that women migrants are forced to take clandestine routes and choose exploitative forms of migration. This has resulted in them ending up either in exploitative forms of work or being trafficked.

Caste discrimination exists in Nepal at a pervasive stage. In spite of several legal efforts made by the government, the situation of around 15 percent of the population of the country has not been changed. Strong feudal values enshrined in the leadership of different political parties have failed to change even the attitude of their cadres and the outlook about the Dalits. Their manifestos say that discrimination against Dalits is a human rights violation and almost all parties have committed to eliminate this practice principally, but at a practical level that is not the case. Because of this, still today Dalits lag far behind in decision-making positions of the socio, economic and political structure of the country and from positions of Governance.

This practice has influenced Dalits as a whole and Dalit women in particular. Although the level is not the same, similar phenomena can also be observed for the indigenous population of the country. It is even more pathetic to see that even within Dalits caste discrimination exists. Dalits are also divided into several castes and the lowest such as Dom, Chamar, Poda and others are heavily discriminated against. Terai Dalits are more discriminated against than the Dalits from Hills. The issue of class can also not be ignored in these situations. Dalits who are from the higher class and upper middle class are less discriminated against and enjoy more privileges than the Dalits of the lower class.

Affected by triple or even quadruple burden of discrimination, Dalits from the lower class and caste are forced to live with different forms of risks even for their survival. This can be evidenced by the pattern of migration and the number of exploited migrants from this group of people.

### *Migration in Nepal*

Migration is not a new phenomenon in Nepal. History evidenced that the people of Nepal have taken migration as an option for their livelihood, education and for other purposes. Migration for work and migration for other purposes have different dimensions and affect people differently. In this section we will focus on migration for livelihood. In Nepal, official overseas migration for work started with the recruitment of Gurkhas in the British Army. Nepal being open to

the outside world and shrinking opportunities for livelihood have been the main causes of out migration of the country. Beside this, there are cases suggesting that people migrate even to get rid of discriminatory practices which they are forced to face. Women choose to migrate as a coping mechanism against violence towards them and discriminatory practices against them.

#### Case Study:

*Seeta Nepali from Morang comes from Pariyar (Dalit, tailor caste) community. Her family is very poor and she needed a job to sustain herself and her family. She wanted to work in her community. She is not educated but can cook well and likes household work. Being a girl from a Dalit family she couldn't find any families who would take her as a housemaid where cooking, cleaning and entering the house was required. This situation forced her to migrate to India, hide her caste identity (according to her she could do that in India because no one knew her) and start to work as a housemaid. In order to find that job she had to sign a contract with the person who helped her to find it, agreeing that she would pay half of her salary to him for 6 months. She was under-paid and very badly treated. The owner used to beat her frequently and denied food quite often. Nevertheless, according to her she used to keep quiet and tolerate the situation, as she didn't want to come home."*

*This is one among several examples of such cases.*

#### Contemporary debate:

Migration is one of the most discussed topics at this moment in the country. However, this discussion is predominantly focused on how to make migrants safe who migrate to the Middle East, or other countries abroad. This should not be taken that the present argument is to say that they are not discriminated against and this issue should not be focused on, but this argument is to highlight that at least 10 times more migrants from Nepal migrate to India every year and especially during the agricultural season. These laborers are the most exploited and humiliated, and forced to live in very unsafe situations. But the discussion so far has not focused on this. There are various reasons for this, however one of the most important reasons is that the majority of the people who migrate to India especially as agricultural laborers are from the lower class (who can't afford the money required to pay to manpower agencies and tickets required to migrate abroad) and the majority of them come from Dalits from the Terai community (southern part of the country). They are marginalized even within social developmental and political movements and their issue is still not the priority. This clearly demonstrates that on the one hand caste and class based discrimination is making people more vulnerable, and on the other hand the same phenomena keep them from being supported and becoming visible.

#### ***Ethnic dimensions of migration***

Nepal estimates to have 60 ethnic minorities with more than 100 local dialects. Being constitutionally a Hindu kingdom of the world, any non-Hindu group of people is considered an ethnic minority,<sup>20</sup> leaving them impoverished and treated in much the same way as lower caste Hindus. Thus, the socio-cultural systems supported by state provisions in Nepal have produced two types of minorities of disadvantaged groups: non-Hindu indigenous people and Hindu lower caste people (Dalits).

Representation of Dalits and indigenous and ethnic minority people in the political arena is very low. For Dalits, it is almost absent; in spite of the number of ethnic groups within this broad segment that together constitute some 50 percent of the total population of Nepal.

Another traumatic condition is that a number of Dalits residing in Terai, the southern belt of Nepal, are denied citizenship irrespective of sufficient evidence of their existence in the country for centuries. Consequently, these groups are deprived of national rights, national identity, and benefits of any development project, thus making them

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<sup>20</sup> UNIFEM (1999) An initiative against trafficking in India, Nepal and Bangladesh

more vulnerable to migrate for a livelihood, which aggravates their risk of being trafficked. Furthermore, caste discrimination can be seen even in government-initiated development programs, with many of the projects failing to benefit the lower class and caste people.

Caste discrimination constitutes a form of racism by which people are put into subordinate social positions, and mostly denied equal access to social, economic, political and legal resources.<sup>21</sup> Wealth and power is disproportionately divided, making people of higher castes powerful and people of lower castes powerless. This phenomenon has been largely defined as a cultural practice of the country. Cultural attitudes that perpetuate the caste system are inculcated at a young age in Nepal, and are often reinforced within the education system.<sup>22</sup>

In determining the cases of trafficking and exploitative forms of migration, the feudal structure of the state and strong discrimination on the basis of class, caste and geographic location, together with discriminatory values inculcated into societal practices for centuries, needs to be considered. These values intersect with the prevailing feudal structure of society and the state's treatment of women and people from lower classes and castes as commodities, with bodies and labor available for exploitation by those in power. Prevailing practices of racial discrimination in almost all spheres of life and countries, and gender dimensions of racial discrimination make women as a whole more vulnerable, and Dalit women in particular. The multiple forms of discrimination based on race, gender, religion, nationality, social class, caste, age and other status create a situation of "double or triple marginalization."<sup>23</sup>

Global demand for a cheap and controllable labor force encourages trafficking and exploitative forms of migration by elevating all forms of migration.<sup>24</sup> Nepal's model of trafficking suggests that the racist and gendered approach of the labor market provides work to women and people from the weaker section in the area where their bargaining power and rights are weak, resulting in their silence and forcing them to work in any form further roots the cause of trafficking.<sup>25</sup> Factors vary according to location, ethnic group, family and the individual. Discrimination based on class, caste and gender is manifested in different forms such as: denial of the rights to general education or specialized skill training, health education and service, restricted access to the physical body and decisions by others.

### *Structural issues of gender and racial discrimination*

Discrimination based on both gender and race can assume different forms and occur in many contexts. Overarching gender-based violence can be taken as a good example of this phenomenon. In a country like Nepal where gender based discrimination is severe, women face relatively higher rates of violence. Caste-based discrimination leads to different forms of violence against people from castes other than the so-called higher castes within the Hindu system. Women are discriminated against the most on the bases of both gender and caste, thus multiplying the risk of violence against them.

Society, societal values and norms, together with local and National governments, are headed by people from high castes. Men and women from the marginalized community are usually reluctant to report cases of violence because of fear of being stigmatized, or inaction by the state authority. Moreover, they often even fear hostility from the latter.<sup>26</sup> This situation results in the non-reporting of cases of violence. This makes the person suffering violence more vulnerable to get into another cycle of violence. The perpetrators of the violence receive the benefit of this, and continue violating the rights of women. A culture of a wide range of impunity supports violators to work indifferently.

In total, different non-state actors such as the market, armed militia, and religious institutions, previous instance and

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<sup>21</sup> South Asia Human Rights Documentation Center and Human Rights Documentation Center, Human Rights Feature 43/01, 2001

<sup>22</sup> Ibid

<sup>23</sup> Coomaraswamy (2000) Special Rapporteurs to UN on violence against women (VAW), report on Trafficking in women, women's migration and VAW submitted in accordance with commission on Human Rights resolution 1997/44(E/CN.4/2000/68)

<sup>24</sup> Anti-Slavery International (2003), The Migration-Trafficking NEXUS: Combating trafficking through the protection of migrant's human rights, 2003,6, quoting UNICEF UK, End Child Exploitation: Stop the Traffic, London 2003

<sup>25</sup> WOREC (2002) "Cross Border Trafficking in Boys," WOREC/ILO/IPEC, Katmandu

<sup>26</sup> Minority Rights Group International. Working to secure the rights of minorities and indigenous peoples

established working norms as well as family and society, work hand in hand to perpetuate violence against women on the base of caste and gender.

### *Conclusions*

The combined effects of racism (caste or ethnic) and gender discrimination, particularly in the case of migrants, indigenous people, minorities and marginalized women around the world, have adverse effects on their human rights in all spheres. Failure of the state to ensure the rights of every citizen to live as a free citizen of the country without any forms of discrimination makes discriminated groups more vulnerable.

Discriminatory migration policies and sexist and racist views towards labor and the complexion of certain groups of people are the root of causes of trafficking and different other forms of exploitative outcomes of migration. Eradication of trafficking and all forms of exploitative forms of migration should include both the countries of origin and destination that perpetuate such practices, analyze this and move ahead towards socially just practices and provisions with human rights for all. Rights of a person to live without any forms of discrimination and with dignity are the fundamental rights of that person. This needs to be respected by all states involved.

## Part 2: Specific Issue Areas

### 2.1. Climate change and vulnerable people, including environmental migrants

#### *Climate change and vulnerable people*

It is now evident that our globe is warming due to the increase of GHG (Green House Gases) emission, mainly produced by human activities. The 4<sup>th</sup> Assessment Report of the International Panel on Climate Change (IPCC) states that

- 1) Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperature, widespread melting of snow and ice, and rising global sea level.
- 2) Many natural systems are being affected by regional climate changes, particularly temperature increases, based on observational evidence from all continents and most oceans.
- 3) Other effects of regional climate change on natural and human environments are emerging, although many are difficult to discern due to adaptation and non-climate driver.<sup>27</sup>

Climate change will affect the basic elements of life for people around the world - access to water, food production, health and the environment. Hundreds of millions of people could suffer hunger, water shortage and coastal flooding as the world warms.<sup>28</sup>

The people are now trying to adapt to the climate change and the impact, but there is one big difference between developed countries and developing countries. While developed countries have the financial, technological and human resources to deal with the consequences of a changing climate, such capacities of developing countries are severely limited.<sup>29</sup>

The World Bank predicts that the poorest countries and communities, particularly in Sub-Saharan Africa and South-East Asia, are likely to suffer the earliest and most because of their geographical location, low incomes, and limited institutional capacity, as well as their greater reliance on climate-sensitive sectors like agriculture.<sup>30</sup>

As a result of the climate change, natural disasters such as floods and drought have become more severe and abrupt and have caused serious damage on the people, particularly children and women in developing countries. Save the Children UK released "*Legacy of disasters-the impact of climate change on children*" in April 2007, which states that in the next decade, up to 175 million children are likely to be affected every year by the kind of natural disasters brought about by climate change.<sup>31</sup>

In the extreme cases, the people affected by natural disaster decide to move and their human security will be placed at risk while they are moving. For instance, after the Tsunami hit South-East Asia in 2005, trafficking in children has been widely observed in the region. As a result of natural disaster, the people were displaced, separated and became vulnerable to the risk of trafficking.<sup>32</sup>

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<sup>27</sup> Intergovernmental Panel on Climate Change (IPCC) (2007), IPCC Fourth Assessment Report, Climate Change 2007: Synthesis Report, Summary for Policymakers, p.1-2

<sup>28</sup> Nicholas Stern (2006) *The Economics of Climate Change: The Stern Review*, Cambridge University Press, Cambridge, p.xv

<sup>29</sup> UNDP (2007) *Human Development Report 2007/2008: Fighting climate change: Human solidarity in a divided world*, New York, p.171

<sup>30</sup> World Bank Group (2008) *Towards a strategic framework on climate change and development for the World Bank Group*, concept and issues paper (consultation draft), p.1

<sup>31</sup> Save the Children UK (2007) *Legacy of disasters: the Impact of climate change on children*, London

<sup>32</sup> UNICEF (2005) *Climate change and Children*, New York

However, it should be noted that even though they do not move, the natural disasters make the people more vulnerable to various risks.

The 4<sup>th</sup> Assessment Report of the International Panel on Climate Change (IPCC) presents examples of some projected impacts as follows.<sup>33</sup>

- 1) In Africa, by 2020, between 75 and 250 million people are predicted to be exposed to increased water stress due to climate change. By 2020, in some countries, yields from rain-fed agriculture could be reduced by up to 50%. Toward the end of the 21<sup>st</sup> century, predicted sea-level rise will affect low-lying coastal areas with large population.
- 2) In Asia, by the 2050s, freshwater availability in Central, South, East and South-East Asia, particularly in large river basin, is predicted to decrease. Coastal areas, especially heavily-populated mega-delta regions in South, East and South-East Asia, will be at greatest risk due to increased flooding from the sea and, in some mega-delta, flooding from the rivers.

It is evident that those who have lost regular means of living will become more vulnerable to the risk of human trafficking.

### *Environment and migrants*

For many people, migration is vital to protect and attain human security, although their human security may also be at risk while they are migrating.<sup>34</sup>

There are estimated 191 million migrants worldwide in 2005, up from 176 million in 2000. Out of 191 million migrants, there are roughly 30 to 40 million unauthorized migrants worldwide.<sup>35</sup>

People become more vulnerable to risks such as trafficking while they are migrating. It was estimated already in 2000 that more than half the 15-30 million illegal migrants in the world had been assisted by smugglers or been forcibly relocated by traffickers.<sup>36</sup> The number of trafficked migrants should be much larger nowadays.

People decide to move for various reasons. On June 1<sup>st</sup> 2007, UN High Commissioner for Refugees Mr. António Guterres raised three main causes: poverty; climate change and environmental degradation; and conflict and persecution at the European Foundation Centre Conference.<sup>37</sup> There is now a broad consensus that environmental change is one of the major factors for migration.

Accordingly, various studies have been and are being conducted. For instance, United Nations University Institute of Environment and Human Security (UNU-EHS) has already launched the two-year project "Environmental Change and Forced Migration Scenarios (EACH-FOR) early in 2007, which aims at discovering and describing in detail the causes of forced migration in relation to environmental degradation/change and their association with other social, political and economic phenomena in Europe and in the main countries of migration origin.<sup>38</sup>

It is Lester Brown of the Worldwatch Institute who popularized the term "environmental refugees" first in the 1970's.<sup>39</sup> Then, following a paper by El-Hinnawi (1985) on environmental refugees, several notable studies have been published in this field. Up to now, the major debate has got around the definition of environmental refugees/migrants.

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<sup>33</sup> Intergovernmental Panel on Climate Change (IPCC) (2007), IPCC Fourth Assessment Report, Climate Change 2007: Synthesis Report, Summary for Policymakers, p.10

<sup>34</sup> Commission on Human Security (2003), Human Security Now: Protecting and Empowering People, United Nations, p.41

<sup>35</sup> International Organization for Migration (IOM), Global Estimates and Trends, <http://www.iom.int/jahia/page254.html>

<sup>36</sup> Commission on Human Security (2003), Human Security Now: Protecting and Empowering People, United Nations, p.42

<sup>37</sup> UNHCR (2007) Remarks of the UN High Commissioner for Refugees, Mr. António Guterres, European Foundation Centre Conference on 1 June 2007

<sup>38</sup> UNU-EHS (2007), Fabrice Renaud, Janos J. Ogardi, Olivia Dun, Koko Warner, Control, Adapt or Flee – How to Face Environmental Migration?, Bonn

<sup>39</sup> Richard Black (2001) Environmental Refugees: myth or reality? in *New Issues in Refugee Research*, Working Paper No.34, United Nations High Commission for Refugees, Geneva

Norman Meyers, Oxford University, is one of the leading proponents for environmental refugees and was quoted in the UNU press release on Oct.12 2005 that as many as 200 million people could be affected by disruptions of monsoon systems and other rainfall regimes, by droughts of unprecedented severity and duration, and by sea-level rises and coastal flooding if global warming takes hold.<sup>40</sup>

Richard Black, University of Sussex, represents the school being rather critical about using “environmental refugee” mainly because the term “environmental refugee” is not clearly defined. Black insists that without a firm definition of who is an “environmental refugee,” it is not easy to say that this category of people is increasing although he admits that the environmental factor is one of the factors for people to decide to migrate.<sup>41</sup>

Based on these arguments, UNU-EHS proposed to distinguish between 1) Environmentally motivated migrants, 2) Environmentally forced migrants, and 3) Environmental refugees. In their definitions, an environmentally motivated migrant may leave a steady deteriorating environment in order to pre-empt the worse, in which the displacement can be either temporary or permanent and environmentally forced migrants have to leave in order to avoid the worst, often on a permanent basis. They insist that environmentally forced migrants and environmental refugees could be distinguished based on the swiftness of necessary actions.<sup>42</sup>

Despite the on-going arguments, there seems to be a widely accepted consensus that environmental factors affect the people when they decide to move. So, the proper attention to the risk of migrants should be incorporated in devising any adaptation measures because the people are exposed to the risk for their human security, including the risk of human trafficking, when they move and when they are affected by the natural disaster even if they do not move.

### ***Agenda for Adaptation for the vulnerable people including environmental refugees/migrants***

We have to deal with the climate change in two directions, mitigation and adaptation.

It is essential to prevent further warming by reducing the GHG emission even though it is most likely that global warming will continue in the next decades due to the effect of the former GHG emission. At the same time, we have to come up with the effective adaptation program urgently, focusing on the vulnerable people in developing countries.

UNDP identified five risk-multipliers for human development as follows while maintaining that the effects of climate change vary geographically and socially.<sup>43</sup>

1. Reduced agricultural productivity
2. Heightened water insecurity
3. Increased exposure to coastal flooding and extreme weather events
4. The collapse of ecosystems
5. Increased health risks.

UNDP, then, summarized the foundations for successful adaptation for developing countries as follows.

1. Information for effective planning
2. Infrastructure for climate-proofing
3. Insurance for social risk management and poverty reduction
4. Institutions for disaster management.

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<sup>40</sup> Norman Myers (2005) Environmental Refugees: An Emergent Security Issue, 13<sup>th</sup> Economic Forum, Prague, 22-23 May 2005 and UNU (2005) Press Release “As Ranks of “Environmental Refugees” Swell worldwide, Calls Grow for Better Definition, Recognition, Support”, Tokyo

<sup>41</sup> Richard Black (2001) Environmental Refugees: myth or reality? in *New Issues in Refugee Research*, Working Paper No.34, United Nations High Commission for Refugees, Geneva

<sup>42</sup> UNU-EHS (2007), Fabrice Renaud, Janos J. Ogard, Olivia Dun, Koko Warner, Control, Adapt or Flee – How to Face Environmental Migration?, Bonn

<sup>43</sup> UNDP (2007) Human Development Report 2007/2008: Fighting climate change: Human solidarity in a divided world, New York, p.26-31

For instance, the human and physical capacities to collect meteorological data and forecast the weather are essential for the reduction of natural disaster-induced risks. For protecting the people from natural disasters, we need to construct infrastructures such as water gates, coastal buffer zones and reservoirs. Employment programs, cash transfers, crisis-related transfers and insurance-related transfers should be devised as insurance for social risk management and poverty reduction. It is also essential to develop the institutional capacity to improve disaster risk management because natural disasters such as floods or storms could produce less disastrous outcomes in the better-equipped countries.<sup>44</sup>

John Barry proposed to add the following three as the foundations for successful adaptation<sup>45</sup>.

5. Solidarity among the people
6. Low level of socio-economic political inequality
7. Strong sense of local knowledge

In order to promote the above agenda for adaptation, we have to develop and transfer the necessary technologies to developing countries and to provide the sufficient financial resources.

On the financial side, Oxfam estimates that the cost for developing countries of adapting to climate change will be at least \$ 50 billion each year, well above the World Bank's estimates of \$10-40 billion annually.<sup>46</sup>

Since the total amount of ODA (Official Development Assistance) has shrunk recently, mobilization of private funding through innovative financial mechanism has become more crucial and several proposals were put forward and examined by several agencies like World Bank, which include CTDL (Currency Transaction Development Levy) and weather-index-insurance.

### *Weather-index-insurance scheme*

The weather-index-insurance is a scheme, developed by private companies for their own risk hedge and then modified and tested by NGOs and World Bank for farmers in developed countries against natural-disaster induced risks, which eventually proved quite useful in certain conditions. Recently, agencies such as the Japanese Ministry of Finance, the World Bank, United Nations and some other institutions have started to examine its possible application for the most vulnerable people affected by natural disasters in developing countries.

The weather index insurance is an insurance scheme in which the payout is to be triggered when a certain index such as temperature, wind speed or rainfall exceeds the prefixed level. Therefore, the payout is quite speedy compared with traditional disaster insurances in which the causal relation between natural disaster and damage must be proved and the loss has to be calculated.

The World Bank has designed and implemented pilot projects recently in India, Malawi, Ukraine, Central America and Thailand.<sup>47</sup> In Malawi, a packaged loan and index-based micro-insurance product is offered to groups of groundnut farmers, organized by the National Smallholders Farmers Association. The bank and rural financial institutions pay the weather insurance premium to the insurer, the Insurance Association of Malawi. In the event of a severe drought as measured by the rainfall index, the borrower pays only a fraction of the loan due and the rest is paid directly to the bank by the insurer.<sup>48</sup>

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<sup>44</sup> Ibid., p.172-184

<sup>45</sup> Comments by Dr. John Barry, Reader in Politics, Queen's University Belfast, at the International symposium organized by Chiba University, "Our challenging Agenda 2008, Confronting Ecological Crisis – Linking Environmental Thought to Public Philosophy" on June 15-17, 2008.

<sup>46</sup> Oxfam International (2007) Adaptation to climate change: what's needed in poor countries, and who should pay, Oxfam Briefing Paper No.104, London, p.3

<sup>47</sup> Please find the brief explanations of World Bank Pilot projects in Thailand in the following URL. < <http://go.worldbank.org/RGBA9BVTB0>>

<sup>48</sup> Joanne Linnerooth-Bayer and Reinhard Mechler (2006) Insurance for assisting adaptation to climate change in developing countries: a proposed strategy, Climate Policy 6, Earthscan Ltd., p. 621-636



In 2007, the Japan Bank for International Cooperation (JBIC) also established a task force to study about weather index insurance.

Weather index insurance, of course, has its own limits. It needs reliable time-series meteorological data and a good model for weather forecasting. In addition, the premium could become extremely high if the incidence of natural disaster increases and we may need certain public financial assistance in order to sustain the scheme.

In this connection, Sir John Holmes, under secretary-general for humanitarian affairs and emergency relief co-ordinator at the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), proposed to look for new ways in which donors could pay a small premium to insure them against extreme weather conditions<sup>49</sup>.

Prof. Dr. Peter Hoeppe, Head of the Department of Geo Risks Research/Munich Reinsurance Company AG holds that insurance premium could be collected from the CO<sub>2</sub>-emitters by means of a global emission trading scheme. He says that if the insurance premium is collected as proportional to the current CO<sub>2</sub> emission, each emitter would not lose their incentive to further cut off their emission because by doing so, they cut their whole cost for buying emission credit under the cap and trade scheme.

We would propose that if the insurance premium to be borne in developed countries is exempted from national tax, it would become a good incentive for contributors to make insurance premium voluntarily.

In developing countries, Microfinance Institutions (MFI) and/or other local institutions could work as proper agent with local recipients in the whole project cycle, designing the system, collecting the local share of the premium, and distributing and utilizing the pay-out. In order not to induce aid (pay-out)-dependence, it is vital to maintain proper cost-sharing balance for local clients. Local institutions such as MFIs have first-hand access to local communities and are usually in the best position to device such mechanism although, like other schemes, MFIs have own advantages and disadvantages.<sup>50</sup> In practice, many multinational financial companies such as HSBC (Hong Kong Shanghai Banking Corporation) have already worked with MFIs in developing countries and are now considering to expand their business to micro-finance services.<sup>51</sup>

In addition, it might be worthwhile considering establishing the private contribution scheme to the funding pool for weather-index-insurance in developed countries in which ordinary citizens could take part in the international cooperation projects through donation in daily life. It also helps in expanding the financial base for the non-governmental sector.

### ***Public Social Private Partnership***

Apart from the weather-index-insurance, several innovative financial schemes, utilizing the market mechanism, have been proposed and examined nowadays.

The underlying idea behind those proposals is based on the mission of Public Philosophy, facilitating and promoting the public interest through private actors' active participation without relying too much on the government both in developed and developing countries.

Public Philosophy means the one developed and advocated by Prof. Masaya Kobayashi and Prof. Naoshi Yamawaki, which aims at theorizing and developing the tripartite social framework, in which public interest is to be borne and promoted by non-governmental actors in addition to the public service provided by government and the private interest to be sought by private agents.

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<sup>49</sup> ENVIRONMENT: Poor May Need Insurance Against Climate Change by Linus Atarah in HELSINKI on Feb 21 (IPS). < <http://ipsnews.net/news.asp?idnews=41283> > June 6, 2008

<sup>50</sup> Joanne Linnerooth-Bayer and Reinhard Mechler (2006) Insurance for assistin adaptation to climate change in developing countries: a proposed strategy, Climate Policy 6, Earthscan Ltd., p.621-636

<sup>51</sup> Munich Re Foundation (2006) Report Microinsurance Conference 2006 – Making insurance work in Africa

In this connection, it should be stressed that non-governmental actors include not only NPO/NGOs, but also private companies. As the ongoing discussion on ISO26000 clearly indicates, the major focus has been shifted from the Corporate Social Responsibility to Social Responsibility, in which all the stakeholders are requested to take social responsibility.

On the other hand, we are facing the global environmental risks such as climate change, degradation of biodiversity and inappropriate disposal of industrial products and in order to realize the sustainable society, governments, private companies and NGOs must work together.

This Public Social Private Partnership, an extension of PPP (Public-Private-Partnership), clearly reflects the social ideals which all the stakeholders, including governments, private companies, NGOs have to follow.

The human security of those who are facing risks such as the one of human trafficking in developing countries should be protected by the proper Public Social Private Partnership.

## 2.2. Migration, conflict and natural calamities

*"Mixed in among the tens of thousands of people risking life and limb in search of a better life, are refugees and asylum seekers fleeing from persecution and fear." -----UNHCR*

### ***Protection of refugees and other migrants***

According to the 1951 Convention relating to the Status of Refugees article 1A a refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country."<sup>52</sup>

The 1951 Refugee Convention and its definition is a product of Europe in the immediate post-World-War-II period, and it does not cater for the problems of today's world, such as mass displacement through war and generalized violence in several developing countries. A majority of the persons in need of protection and assistance do not qualify as refugees.<sup>53</sup>

Moreover, besides conflict, each year degradation and depletion of the available natural resources compels people to move out in search of survival. "People who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life" are called "environmental refugees".<sup>54</sup> Not all of them have fled their countries, many being internally displaced.

There is still disagreement about the term "environmental refugees." However, it has nonetheless served a humanitarian agenda and directed international attention to big environmental crises. The problem is that environmental change is not to be found in the definition of refugees of the 1951 Convention, and whose displacement relate to environmental change, do not meet the requirements to be defined as "refugees".

People displaced by environmental change or in conflict across borders may be granted a subsidiary status of protection, or be protected against return through non-refoulement\*, however, there are no unified rules granting asylum, international protection and assistance to these people, and the exact scope and interpretation of non-refoulement is contested. Internally displaced people do not receive aid or are not granted adequate protection either, because of the principle of state sovereignty, which requires the consent of the state involved to any assistance for its own displaced citizens.<sup>55</sup>

It is sometimes difficult to differentiate between refugees that are driven by persecution, environmental factors and conflict and those who are impelled by economic problems. There is a "gray zone" in which one category sometimes tends to merge into the other. This has affected the perception of refugees. Once a universal and protective label, the "refugee" in contemporary discourse has become fragmented into "illegal migrant," economic migrant or "bogus asylum seeker," and "terrorist" and conflated with smuggling and trafficking. In a world grown hostile, against the backdrop of the phobia about "uncontrolled migration," anxieties about social cohesion and security of the state and the burden of carrying asylum costs – refugee rights have got translated as a curtailment of the principles and legal obligations of protection. This is not only manifest in the intensification of restrictive entry and detention policies in the prime destination countries of the "North" but also in the global "South." Alternative policies emphasizing securing refugee protection in neighboring, or "safe third countries" have produced a shifting of the refugee burden as evinced

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<sup>52</sup> Convention relating to the Status of Refugees (1951) Article 1A

<sup>53</sup> Kolmannskog, Vikram Odedra (2008) Future floods of refugees, Norwegian Refugee Council

<sup>54</sup> El-Hinnawi, E (1985) *Environmental Refugees*, United Nations Environment Program (UNEP)

\* The principle of *non-refoulement* is an absolute and general ban on returning people to places where they risk certain ill-treatment.

<sup>55</sup> Kolmannskog, Vikram Odedra (2008) Future floods of refugees, Norwegian Refugee Council and Newman, Edward (2003) Refugees, international security, and human vulnerability: Introduction and survey (pp.3-30) in *Refugees and forced displacement: International security, human vulnerability, and the state*

in the refugee load of for example, Nepal, Kenya, Thailand, Lebanon and Syria and in the increase in internally displaced persons and stateless population. The reality is that developing countries shoulder the social and economic strain of the vast majority of asylum seekers and people displaced through conflict and state failure.

### *Insecurity of refugees and ambiguity of definitions*

Refugees and asylum seekers confronted with hostile regimes of entry are increasingly turning to clandestine regimes of flight and getting entrapped in smuggling and trafficking networks. Moreover, the international focus on trafficking is flattening the understanding about the multi-layered reasons why people move, criminalizing migration (including movement of refugees and asylum seekers) and de-legitimizing the cross border movement of women, in particular. Migration is not trafficking; irregular migration is not trafficking and even smuggling is not trafficking. While there is value in maintaining the distinctions as adumbrated in the Refugee (1951), Anti-Trafficking (2003) and Anti-Smuggling (2004) Conventions, many human rights and social activists point to the social reality of the blurred and indeed lack of any meaningful distinction between flight from persecution and generalized violence and flight from life threatening livelihood insecurity. At a National Consultation on a National Law for refugees in India (New Delhi Jan 2007) the consensus favored ambiguity as providing a wider protective net for vulnerable "illegals." This was amidst a backdrop of media reports that invoked a security scare due to 14 arrested Myanmar nationals<sup>56</sup> as well as the controversy over "illegal" Bangladeshi bar girl dancers in Mumbai.<sup>57</sup>

Individuals displaced in conflicts or by natural disasters flee their homelands and stay in camps within internal borders or in the neighboring countries, unable to return home and facing insecurity and the challenge of smuggling and trafficking networks. An example of Burmese refugees is presented below.

### *Burmese/ Myanmarian refugees fleeing across borders*

The plight of the Burmese encapsulates the layered complexity of the flight of vulnerable ethnic groups escaping generalized violence and livelihood insecurity and the challenge of protecting their human rights and dignity. In Burma, thousands of men and women belonging to oppressed ethnic groups doing forced labor at the hands of the ruling military regime have been rendered abjectly vulnerable to food and health insecurity and have been fleeing across borders. According to UNHCR (2006), the global number of refugees from Burma rose by 23%, with refugee status accorded to 8,600 in Malaysia and 15,800 in Thailand. NGOs, however, believe that there are up to 100,000 undocumented Burmese adults working in the Thai seafood and fishing industry alone, in addition to several thousand unregistered workers in farms and situations of dramatic servitude.

However, Burmese refugees often do not find security and protection in the places they flee to. In the "temporary" border camps in Thailand, refugees have for decades been languishing in subsistence conditions. Traffickers take advantage of the absence of any viable income generating options. A permit is required to leave the camp and some surreptitiously slink away to find work in nearby farms. Many simply join the legion of unregistered workers in low skilled and menial servitude jobs, vulnerable to the endemic crackdowns and deportation. Burmese girls and women get entrapped in trafficking networks. For instance, Rohingya-Burmese women refugees in Bangladesh were "lured"/ "consented" to being trafficked from camps in Bangladesh, via India to Karachi.<sup>58</sup> With political oppression and economic conditions in Burma worsening, this trend has continued.

The Tsunami which struck Thailand in December 2005 exposed the plight of the Burmese refugees/ migrants and drew attention to the abject failure to develop a humanitarian response for such vulnerable groups in the event of a natural disaster.<sup>59</sup> Some 700-2,500 were said to have been killed in the Tsunami out of 12,000 believed to be in the coastal districts. IOM estimated that about 7000 were Tsunami affected. But they were the last to receive

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<sup>56</sup> The Hindu (20/02/07) 14 Myanmar nationals arrested in Kashmir

<sup>57</sup> Flavia Agnes (2007) The Bar Dancer and The Trafficked Migrant: Globalisation and Subaltern Existence, in *Refugee Watch, Issue No. 30 (December 2007)*

<sup>58</sup> Chris Brunette (1999) Trafficked from Hell to Hades?, Images Asia, Report, November

<sup>59</sup> Pia Oberoi (July 2005) Humanitarian Responses towards Burmese Migrant Workers, *Forced Migration Review*

humanitarian or urgently required medical assistance. In view of their irregular status, few dared report the violations of their human rights by employers who abandoned them or local functionaries who exploited them. Media reports alleging their implication in criminal activities, spurred on the drive to round up and deport hundreds to Burma.

### *Conclusions and recommendations*

Migration needs to be moved out of the paradigm of smuggling and trafficking regimes that have militarized borders and criminalized "natural" migration and move towards referencing human rights and sustainable incomes. As a UNHCR Commissioned study "The trafficking and smuggling regime: the end game in European asylum policy" (2000) warned – "The direction of current policy risks not so much solving the problem of trafficking but ending the right to asylum in Europe." In addressing conflict there is the need to engage with the root causes; in addressing the situation of refugees, internally displaced persons and stateless peoples, there is the need to also develop a comprehensive approach that goes beyond "safe haven in country of origin or safe third country options".

Obviously there is an international protection gap of environmental migrants and migrants displaced by conflicts. These migrants should be granted protection by drafting and adopting a new international convention or by incorporating additional elements – fleeing for environmental reasons and from conflict –in the 1951 Refugee Convention definition.

Along with UNHCR, human rights and social organizations need to be involved in the process of determining the international "management" of migration and refugee protection.

We need to work together to demystify assumptions on which the international framework on migration is being built, and draw attention to local contexts. In particular, there is need of research backed policy analysis of the special vulnerabilities of people in the context of conflict induced and natural disaster displacement. A gender analysis is vital to ensure the rights of refugee and displaced women and to counter the tendency to infantilize and rob them of agency. Their decision-making capacity needs to be strengthened.

## 2.3. Migration and Health

*“The exclusion of vulnerable groups from health care brings along major risks like individual suffering and exploitation, a risk for public health in general, demand for emergency services which are far more expensive, the creation of backstreet services, ethical dilemmas, problems for the administration and discrimination against the concerned migrants.” -----Wayne Farah, Newham Primary Care Trust*

### ***Right to health care for undocumented migrants in developed countries***

There is a wide disparity among developed countries, particularly the G8, concerning legal entitlements of undocumented migrants to health care. For instance, Germany provides subsidized access in very limited cases but this access is overridden by civil servants' duty to denounce the irregular migration status to the immigration authorities. The UK has somewhat wider coverage, but the legislation is rather restrictive, ambiguous and with a high degree of uncertainty. A high percentage of undocumented migrants residing in France are in principle entitled to health care services. However, in practice they do not receive it for various reasons: the complexity of the system, its requirements and the lack of awareness about undocumented migrants' entitlements among different actors, etc. Italy has generous legal entitlements to health care for undocumented migrants. However, this does not automatically guarantee the enjoyment of rights as far as the law is not uniformly implemented throughout the country, and migrants sometimes have difficulty in paying the moderating fee for some services.<sup>60</sup>

As one recent report concludes, access to publicly subsidized health care, either partially or fully, is not guaranteed in Europe. In some countries, all health care (even emergency care) is provided only on a payment basis and treatments are generally unaffordable for undocumented migrants. There is a growing tendency in Europe to restrict access to health care for undocumented migrants and to reinforce the link between access to health services and immigration control policies. Such policies undermine fundamental human rights and make the situation of undocumented migrants even more difficult. Moreover, there are also many gaps between what the law says and its implementation. The procedures concerning implementation of the law are often complicated; there are many conditions, sometimes many administrations involved and a lot of bureaucracy. A high percentage of undocumented migrants do not access any kind of health care even if they are entitled.<sup>61</sup>

Concerning the US, one recent study reveals vulnerability of undocumented workers, in particular those who provided critical help to rebuild New Orleans after Hurricane Katrina, including severely reduced access to health care, wage discrepancy and unsafe working conditions.<sup>62</sup> In Japan, where all citizens receive the benefit of its public health insurance system, immigrants are entitled to the public health insurance only after they stay in Japan legally for one year. This makes temporary and undocumented migrants virtually inaccessible to health care.

### ***Vulnerability of particular migrant groups – migrant women***

There are many particularly vulnerable groups of undocumented migrants as regards access to health care, including children, pregnant women and people with severe chronic diseases such as HIV/AIDS.

Often finding themselves with little social support, migrant women are placed at risk of sexual abuse and exploitation. They often have more health problems than women in the host populations, and their experience with pregnancy and gynecological health tends to be different and more problematic; they tend to seek care late and when they do have problems, they have much worse outcomes than other women in the host population.<sup>63</sup>

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<sup>60</sup> PICUM (2007) Access to Health Care for Undocumented Migrants in Europe

<sup>61</sup> Ibid.

<sup>62</sup> Fletcher, Laurel E., Phuong Pham, Eric Stover, and Patrick Vinck (2006) Rebuilding After Katrina: A Population-Based Study of Labor and Human Rights in New Orleans

<sup>63</sup> Carballo, Manuel (2007) The Challenge of Migration and Health

### *Health care of irregular migrants in transit – displaced people*

Data indicates that as people are forced to leave conflict-affected areas, they are placed at increased risk as they move into areas of increased HIV/AIDS prevalence. They tend to be more vulnerable to sexual transmission and infection with HIV/AIDS for a number of reasons: increased sexual violence and rape; increased use of sex as a commodity by women as a result of losing income caused by crisis and displacement; the breakdown of family, social, and/or cultural structures and consequent loss of norms that regulate sexual activity in stable conditions; and the sexual behavior of armed forces, including peace-keeping units. Poverty, poor access to health care, poor nutrition, lack of education, and political, economic, and social discrimination makes displaced people more vulnerable in this situation.

Women and children constitute a large proportion of displaced persons worldwide, and amongst groups of displaced persons, women and children appear at particular risk of contracting HIV/AIDS. Women are sexually active from an earlier age than men and infected on average six to ten years younger than men, and are biologically more vulnerable to contracting HIV. The lower social status of women also magnifies their vulnerability to being infected with HIV/AIDS, and vulnerability to its impact. The above-mentioned risk of exploitation and abuse, including coercion into transactional sex for survival, is further increased in conflict situations. Many of the burdens of HIV/AIDS at the household level fall upon women, as they are the main producers of food and the main carers for children, the elderly, and the sick.<sup>64</sup>

### *The health risks and consequences of trafficking in women and adolescents*

Trafficking often has a profound impact on the health and well-being of women. The forms of abuse and risks that women experience include physical, sexual and psychological abuse, the forced or coerced use of drugs and alcohol, social restrictions and manipulation, economic exploitation and debt bondage, legal insecurity, abusive working and living conditions, and a range of risks associated with being a migrant and/or marginalized. These abuses and risks impact women's physical, reproductive, and mental health, may lead to the misuse of drugs or alcohol, diminish women's social and economic well-being, and limit their access to health and other support services. Trafficked women have increased risk of exposure to Sexually Transmitted Diseases (STDs), such as HIV infection and sexual trauma. The long-term complications of these threats include infertility, ectopic pregnancy, and malignancies associated with STDs (e.g. cervical cancer and AIDS). Other health threats are threats to mental health, such as depression, substance abuse, post-traumatic stress disorder (PTSD) and the complex psychological burdens of rape, slavery, and sexual exploitation.

Access to health care is particularly vital for trafficked women. However, in practice trafficked women experience lack of care, late treatment, septic abortions (instead of contraception), and chronic untreated infections like gonorrhoea and syphilis, etc. During the detention, deportation, and criminal evidence stage women are rarely offered opportunities to address their health needs. Immigration and police authorities interviewed in Italy, United Kingdom, and Ukraine acknowledged that they do not have victim-sensitive procedures to determine, or to meet the health needs of trafficked women. In most cases developed countries simply send back trafficking victims to their respective home countries. If women remain in destination countries, their access to health and other services is often dependent on their willingness to cooperate in criminal proceedings against traffickers.<sup>65</sup>

### *Conclusions and recommendations*

Improving access to health care for undocumented migrants is an urgent priority since the lack of it has consequences for undocumented migrants. Developed countries should especially address the health care needs of particularly vulnerable groups of undocumented migrants (e.g. children, pregnant women, people with HIV / AIDS,

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<sup>64</sup> Roberts, Bayard (2004) HIV/AIDS, Conflict and Forced Migration

<sup>65</sup> Zimmerman, Cathy et al. (2003) The health risks and consequences of trafficking in women and adolescents. Findings from a European study and Beyrer, Chris and Julie Stachowiak (2003) Health Consequences of Trafficking of Women and Girls in Southeast Asia, Brown Journal of World Affairs

etc.) and pass relevant laws to grant this fundamental human right.

Where undocumented migrants' entitlements to health care exist, countries should take the necessary measures to guarantee that they are implemented. States should detach health care from immigration control policies and should not impose a duty upon health care providers and health administrations to denounce undocumented migrants, and providing humanitarian assistance to undocumented migrants should not be criminalized.

Concerning trafficking in particular, states should recognize trafficked women's rights to health and health services as primary and fundamental elements of their legal and human rights. States should take appropriate action to ensure physical, psychological and social recovery of victims of trafficking, including medical and psychological assistance.

Finally, particular attention should be paid to improve health conditions and health care to displaced people, especially women and children.



## 2.4. Migration and Education

The exacerbation of the economic and social disparities in the Global South, coupled with the increasingly stringent and selective immigration laws particularly prevalent in a number of G8 countries, have made it more and more difficult for various categories of migrant laborers to establish themselves legally and benefit from some of their most basic human rights at home and abroad. G8 countries in particular, have been most conveniently selective “of the kinds of people” allowed to live legally and freely within their borders, often using the level of education of migrants as a benchmark for entry. In turn, victims of trafficking, smuggling, illegal migrants (and in some cases their children) within a number of industrialized countries have been denied access to the most basic levels of education or training and in some cases, have been deported. Rather than finding humane and creative ways to ensure the protection of the basic rights to education and training, G8 countries have adopted a selective, restrictive and alarmist approach when dealing with issues tied to migration within their borders.

### *The negative impact of selective immigration laws and policies based on education for developing nations*

For years G8 countries have attracted “highly skilled” foreign migrants for the sake of the technological and economic advancement of their own economies. By employing African and Asian graduates, Western industries have been able to secure knowledgeable personnel and a technological edge at reduced wages, to the ultimate detriment of developing countries. By facilitating the so called “brain drain” from developing nations and thus alienating them from the knowledge economy, industrialized countries have furthermore capitalized on the losses and economic hardships created by the failure of structural adjustments policies leading to devalued local currencies - a situation they helped promote in the first place.

Today, as a result of these selective migratory policies and skewed development, the majority of migrants leaving countries in developing nations such as Ghana, Nigeria and India for the US have (at the least) tertiary education. While highly educated Africans and Asians have been widely welcomed into the West, unskilled and low education migrants who seek to escape the economic hardships of a number of developing countries are iron cast as illegal immigrants, terrorists or potential terrorists and general liabilities to the social welfare systems of receiving developed countries. Immigration selection processes based on this simplistic categorization of “low skilled” vs. “high skilled” migrants fail to take into account the number of legal and illegal “low skilled” laborers who contribute to the economic growth of developed countries every day. Whether the G8 countries choose to admit it or not, many of their economies benefit substantially from the influx of “low skilled” migrant laborers who fill industrial and service sector jobs that many “citizens” of industrialized nations prefer not to fill. Ignoring these realities and making it increasingly difficult for migrants to receive legal status in many industrialized countries has allowed G8 countries to systematically violate the basic human rights of migrants and their children, specifically pertaining to education.

### *The right to education for migrant children and victims of trafficking/smuggling*

“Formal” and “informal” migrants are protected under the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families<sup>66</sup> on matters related to education and training. According to Art. 30 of the Convention, “each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned”. Accordingly, “access to public pre-school educational institutions or schools shall not be refused or limited “by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child’s stay in the State of employment.” In reality, G8 countries, along with a number of others, have systematically ignored such Conventions. In fact, no G8 country has both signed and ratified this international agreement adopted by the General Assembly since 1990. Additionally, the 1960 UNESCO Convention against Discrimination in Education clearly recalls the Universal Declaration of Human Rights, asserts the principle of non-discrimination and proclaims that every person has the right to education,

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<sup>66</sup> UN General Assembly Resolution 45/158 (1990) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

and states that discrimination in education is a violation of rights enunciated in that Declaration; this convention has been ratified by all the G8 countries.

Moreover, adult education and training play a vital role in instilling basic concepts and skills for successful integration in host countries. Accepting and adopting the Convention would facilitate the process of eliminating the sources of tension and conflict in a number of G8 countries with regards to immigration. However, migrants have become a source of conflict and public alarmism in a number of host countries, especially when trying to gain access to education. Rather than finding ways to properly integrate migrants and ease some of the public tension, some governments have continued to fuel such situations. A recent example can be found in the ex-Italian Minister of Education and current Mayor of Milan, Letizia Moratti's circular on pre-school registration in the city in December of 2007. According to the document, the children of illegal immigrants can indeed sign up for school despite their parents' illegal status, but would be placed on a waiting list until their parents were able to demonstrate proof of legal residency.<sup>67</sup> The inherent risk in this kind of mindset is that these children could either be forced onto the streets or enter the vicious cycle of drugs, criminality, child labor and sexual exploitation. Basic education is recognized by the ILO as the most effective means of preventing child labor and sexual exploitation. Although a number of civil society organizations as well as the state officials opposed Moratti's actions, all G8 countries must take bigger steps in assuring that such incidents do not take place in their school systems, and formalize their commitments to providing easy access to education to all children.

Under-aged victims of trafficking and smuggling are also at risk of not having their basic rights to education assured in G8 destination countries. While some G8 nations offer special provisions to assure that victims of trafficking receive protection and some level of formal or vocational training, such provisions are not applied evenly and consistently and many G8 nations cannot assure that victims of trafficking will not be automatically deported as illegal immigrants once "rescued", as has often been the case in the UK.<sup>68</sup> By shipping trafficked persons back to the countries of origin, G8 countries ignore the hardships and danger that men and (mostly) women might face upon their return. Although trafficked persons are usually deceived about the kinds of work and opportunities for economic development and welfare they will be involved in abroad, they often fall easy prey to these baits due to the economic hardship and lack of viable opportunities available in their countries of origin. In recent years, the socio-economic security of an increasing number of trafficked and smuggled women has been deeply affected by a number of G8 countries' policies on immigration, as well as policies of anti-criminal and anti-terrorist surveillance and control.<sup>69</sup>

### *The case of Japan*

It would be useful here to touch upon education-related anxieties and insecurities experienced by the children of migrants in Japan, the host country of the 2008 G8 Summit, since they are more or less applicable to other receiving countries of migrants and their children.

Japan has ratified the Convention on the Rights of the Child and recognizes that all children living in Japan have the right to education. The problem is that the children of migrants, whatever their rights under the law, are in practice not given educational opportunities equal to those of children of Japanese nationality. In this sense, even as we admit the need to devise specific strategies to improve education for the children of migrants, the problem will not be solved by piecemeal measures, and it is necessary to revise the Japanese education system itself.

The education system of Japan since the Meiji Era has placed importance on bringing up Japanese who will be of use to the Japanese nation, and this principle is emphasized even further in the recent revision of the Fundamental Law of Education. It will be impossible to close the gap in education that exists between the children of migrants and children of Japanese nationality without striving for an education system that allows all children, regardless of their

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<sup>67</sup> La Repubblica (December 21st 2007) Asili vietati ai figli dei clandestini

<sup>68</sup> The Guardian online (2006) Sex workers are a soft target in the asylum figures battle, UK

<sup>69</sup> IMADR (June 2007) Appeal on the responsibility of the G8 nations to respect the rights of migrants, especially women and children victims of trafficking and smuggling, Germany

nationality, to gain an independent awareness of their own rights and to reach their full potential within the conditions of their various environments.

According to communications of the Japanese Minister of Education, the education of children of migrants should correspond with that of *zainichi* Koreans (Koreans resident in Japan since the prewar era and their descendants), but in reality, there are cases where children in Western international schools are given preference. On the other hand, various differences can be found in the environment that children of so-called "old comers" and "newcomers" are raised,<sup>70</sup> and their prospects for the future, and to meet the requirements of each of these environments requires that children of migrants receive an education that considers the unique circumstances of each of their communities.

In order to provide a finely detailed education, it is necessary to create an educational system applicable throughout the country, that is based on the mixing of children who are Japanese citizens and children of various foreign communities, in close cooperation with the board of education, municipality, public education institutions, schools for foreigners, citizens and businesses in each locality. This type of cooperative structure carried out by progressive localities should be emulated by other localities, whereby the education of children of migrants will be actively promoted at the local level.

### *Recommendations*

Keeping the aforementioned issues in mind, G8 countries need to recognize the importance of ensuring equal access to education and training within their own borders and abroad. They should formalize their commitment to assuring education and training to migrants by finally signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. If G8 countries continue denying their responsibility to provide education to all migrants and their children, not only will they continue to perpetuate the cycle of violation of basic rights such as the right to education, but they will also continue to ignore the officially "unrecognized," yet ever present, undocumented people within their borders who also contribute significantly to the economies of these nations.

G8 members should understand the importance of securing and facilitating formal and vocational training for victims of trafficking and people who are to be repatriated. Simply shipping back a trafficked person does not ensure that they will find peace and security- but perhaps most importantly to the G8 nations- it will not ensure that they will stay "at home". G8 members should thus promote sustainable and effective programs and partnerships in countries of origin to fund and to promote community-sensitive income generating programs where opportunities for youths and potential trafficking victims are particularly lacking.

G8 countries must unilaterally initiate a human rights accord for migrant workers and their families, specifically addressing the rights of migrants with regards to education. International guidelines must also be established from a perspective of adherence to human rights and security. Furthermore, the countries of destination of undocumented migrants must modify their immigration policies and their campaign against terrorism and criminal-organizations, in such a way that the undocumented migrants, especially the victims of trafficking and smuggling, receive fair treatment and have their rights to education respected, not only as migrants but also as children and adult workers, protected from all kinds of discrimination on the basis of religion, race, gender or class.<sup>70</sup> Foreign migrant communities in all G8 countries must be guaranteed their right to development and their children must not be subjected to any kind of discrimination based on their parents' status. They are also entitled to receive full protection under the various agreed international frameworks for the rights of the child.

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<sup>70</sup> Roughly one fourth of the registered foreigners are those who have migrated (often forced to migrate) to mainland Japan from the Korean peninsula and Taiwan in the Pre-war era and during World War II. Together with their descendants, today they are popularly called "old-comers." In contrast, migrants from Asia and Latin America who came to Japan after the 1980s are called "new comers."

<sup>70</sup> NGO Forum G8 Summit Japan (October 2007) Position Paper of Peace and Human Rights Unit

## **Part 3. Recommendations**

This document, containing the articles drafted by a group of NGOs, focused on global exploitative migration and on the human rights situations of migrants.

The outcome of this document is a list of several recommendations to the G8 Heads of States, centered on the elimination of all forms of discriminatory practices causing exploitative migration and human trafficking, and on the protection of migrants' rights. We hope that this document will enable G8 Governments to learn about steps that could be taken to protect migrants.

### **I. Specification of concepts and broader interpretation of the definition of trafficking victims**

Nowadays migration policies in developed countries fail to deal with the interconnectivity and complexities of issues involved among different forms of migration such as irregular and regular migration, smuggling and human trafficking, irregular migration and asylum, and with the "gray zones" between them. There is the need to consider these issues together and take "gray zones" into consideration in migration policies and mitigation strategies. We urge States to further specify concepts of trafficking and smuggling, links between coercion and consent, and acknowledge that migrants' status can change over space and time. There is the need for broader interpretation of the definition of victims of trafficking. Responses to trafficking must be through a broader prism than organized immigration crime otherwise many trafficked people will not be identified and assisted.

### **II. Aid for developing countries**

So far none of the G8 countries reached the United Nations target of 0.7% of GNI for aid for the developing countries (ODA). Greater efforts should be made to create jobs and sustainable livelihoods in developing countries, so that the citizens of such states do not feel compelled to migrate. People should be able to realize their potential, meet their needs, exercise their human rights and fulfill their aspirations in their country of origin, and hence migrate out of choice, rather than necessity. Therefore, we urge G8 countries to increase ODA that would enable these objectives to be achieved. However, we would like to emphasize that developing countries need first of all grants and not loans. More aid should not lead to more debt for developing countries.

### **III. Fight gender, race, caste and class based discrimination**

Caste, race and class based discrimination prevail in almost all spheres of life in many countries, as for instance, India and Nepal, and makes such groups as Dalits in India, more vulnerable to human trafficking and other forms of exploitative migration, and also keeps them from being supported and becoming visible. Gender dimensions of racial discrimination make women as a whole more vulnerable, and Dalit women in particular. Eradication of trafficking and all forms of exploitative migration should include both the countries of origin and destination that perpetuate such discriminatory practices, analysis and dealing with root causes of trafficking and moving ahead towards socially just practices and provisions with human rights for all.

### **IV. Protection of migrants due to environmental, climate changes and conflict**

We urge States to acknowledge the right of refugees to seek asylum, and reinforce that asylum seekers and refugees do not lose their protection needs and entitlements just because they are part of a mixed migrants flow, and sometimes difficult to distinguish from other migrants.

Moreover, there is an international protection gap of environmental migrants and migrants displaced by conflicts. A majority of the persons in need of protection and assistance do not qualify as refugees. People displaced by environmental change or in conflict across borders may be granted a subsidiary status of protection, however, there

are no unified rules granting asylum, international protection and assistance to these people. We urge States to grant them protection by drafting and adopting a new international convention or by incorporating additional elements in the 1951 Refugee Convention.

Finally, G8 states have to accept responsibility for the climate & environmental change that causes migration flows. Developed states influence the environment most, however it is the developing states that have to deal with the worst consequences of the climate change. Therefore developed states have responsibility in developing and transferring the necessary technologies to developing countries to deal with the climate change. Moreover, developed states should reduce the global warming effect by reducing the GHG emission and put more efforts into preserving the environment, which would in turn result in diminished flows of environmental migrants.

## **V. More opportunities of regular migration**

In the present globalized world people from developing countries often chose to migrate through irregular channels because there is demand for their labor in developed countries, but there are few possibilities of regular migration. Developed countries pursue selective immigration regulations and welcome mostly only skilled migrants. We urge States to create more regular migration programs, especially for unskilled and low-skilled people, and to establish clear and transparent criteria for the recruitment of foreign workers. This would open the doors at least to some unskilled migrants and enable a better achievement of a match between the supply and demand for migrant labor and in this way diminish a stream of irregular migrants.

## **VI. Protection of human rights of migrants, especially undocumented, and victims of trafficking**

The human rights of migrants is the central focus of our document. In this context we urge States to pay adequate attention to the protection of these rights.

The countries of destination of migrants, including the G8 countries, should assume full responsibility for the security and well-being of Diaspora communities, and treat migrants not as a commodity or liability in the free trade market but as human beings and holders of all fundamental rights. All migrants must be able to exercise their fundamental human rights and benefit from minimum labor standards in accepting countries. Developed countries should protect not only documented, but also undocumented or irregular workers and their families, protect them against exploitation and abuse and offer them appropriate means of appeal according to national legislation.

We urge States to take all possible measures to promote the right to health care and access to education for undocumented migrants. Where undocumented migrants' entitlements to health care and education exist, countries should take the necessary measures to guarantee that they are implemented. Developed countries should especially address the health care needs of particularly vulnerable groups of undocumented migrants (e.g. children, pregnant women, people with HIV / AIDS, etc.). Attention should also be paid to improve health conditions and health care to displaced people, especially women and children, and to grant education for children in the destination countries. Foreign migrant communities in all G8 countries must be guaranteed their right to development and their children must not be subjected to any kind of discrimination based on their parents' status.

We urge G8 states to grant help to victims of trafficking and smuggling, but not punishment. States should recognize trafficked women's rights to health and health services as primary and fundamental elements of their legal and human rights. States should take appropriate action to ensure physical, psychological and social recovery of victims of trafficking, including medical and psychological assistance. Moreover, G8 members should understand the importance of securing and facilitating formal and vocational training for victims of trafficking and people who are to be repatriated. Adequate attention should be paid not only to victims trafficked through criminal networks, but also to the protection of victims of trafficking, who migrate through regular channels and with proper visas. Those groups are often overlooked.

Also, we call upon States for a more humane treatment of irregular migrants and asylum seekers in the immigration detention centers. First of all, detention of asylum seekers should be avoided. If detained, both asylum seekers and irregular migrants should at least be treated properly. G8 countries should ensure that these people receive the necessary health treatment and do not suffer gravely at the hands of state officials.

Finally, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) should be ratified by G8 states without further delay or procrastination.

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