

For delivery

**“Migrants Rights in an Unstable World”  
9<sup>th</sup> Asia – Europe Labour Forum (AELF9)  
And 4<sup>th</sup> ASEM Social Partners’ Forum  
Sofia, Bulgaria  
Cabinet-rank Secretary Imelda M. Nicolas  
Commission on Filipinos Overseas  
December 2, 2015**

UN Secretary-General Ban Ki-Moon during the Second High Level Dialogue on International Migration and Development in New York in 2013 declared that *“Migrants contribute greatly to host societies. As entrepreneurs, they create jobs. As scientists, they are engines of innovation. They are doctors, nurses and domestic workers and often the unheralded heart of many service industries.”*

However, considering the many world-wide crises that migrants face now, it is noteworthy to heed his further call that *“We need to address the plight of stranded migrants. Migrants are often caught in situations of conflict or natural disaster.”*

**I. Migrants from an Array of Countries and Regions: Mirrors of Failed States, Unending Wars and Intractable Wars**

Globally, nearly 60 million people in 2014 have been displaced by conflict and persecution. Every single day, on every continent, the number of people who are forced to flee their homes is growing at a rapid pace. This worldwide displacement was regarded as the highest ever recorded since World War 2.

The largest number of people movement in a quarter of a century according to United Nations Refugee Agency (UNHCR) is due to the Syrian crisis. More than half of the Syrian population has been seriously affected and forced to flee as the conflict stretches into its fifth year.

As it became clear that the conflict is unlikely to be resolved any time soon, four million Syrian refugees/migrants have fled to neighboring countries, more than half of them are children. 7.6 million more remain internally displaced.

**II. An Unprecedented Humanitarian Emergency Unfolds Across Europe and the Mediterranean**

In recent months, we have all witnessed a plethora of heartbreaking pictures and videos of migrants risking their lives together with their children as they desperately board unseaworthy boats for their perilous journey into the Mediterranean seas just to reach Europe. The global community watches with dismay these disaster-laden scenes at border crossings, train stations and the dismal conditions in makeshift camps.

Per the report of UNHCR, as of to date, this year, more than 862,900 migrants and refugees have landed on Europe's shores. Some 51% are from Syria, 20% from Afghanistan, 6 % from Iraq and 4% are from Eritrea.

They are fleeing persecution, poverty and conflicts that rage beyond the continent's borders, but not all manage to reach safety – this year alone, more than 3,400 people have drowned in the Mediterranean.

More often than not such movements are irregular, in the sense that they take place without documentation and frequently involve human smugglers and traffickers. The people who move in this manner often place their lives at risk, are obliged to travel in inhumane conditions and are exposed to exploitation and abuse.

These grueling pictures of realities would inevitably convince us that we are indeed living in an unstable world.

### **III. Labor Exploitation: Decade-long Recurrent Issue of Migrants<sup>1</sup>**

With this backdrop which the UN has described as a “tragedy of epic proportions”, I will now describe briefly the decade-long recurrent issue of migrants especially labor or economic migrants:

Generally, migrants are at heightened risk of exploitation and abuse in the workplace, due to (a) deceptive recruitment practices, both by employers and intermediaries; (b) frequent lack of social support systems; (c) unfamiliarity with the local culture, language, their rights at work and national labor and migration laws in the country of employment; (d) limited or denied access to legal and administrative systems; (e) dependence on the job and employer due to migration-related debt, legal status, or employers restricting their freedom to leave the workplace; and (f) reliance by family members on remittances sent back home by the migrant. These factors are amplified by the discrimination and xenophobia that migrants are increasingly facing everywhere.

Factors which further contribute to exploitation of migrants in the workplace include (a) pressure to lower the cost of labor in highly competitive sectors; (b) the absence of effective implementation of labor and occupational health and safety standards; and (c) frequent lack of unionization. This concerns sectors where migrants are frequently concentrated, such as agriculture, construction, hospitality, care-giving, domestic work and informal work.

Migrants routinely work long hours, including overtime for which they are often not paid, and sometimes do not get their breaks or leave entitlements. They frequently report having been misinformed about labor conditions and benefits, and left without access to medical care and consular protection. A key contributing factor of their exploitation is their general fear of being identified, arrested, detained and deported for real or

imagined reasons, and their consequent reluctance to risk complaining, protesting or publicly mobilizing, preferring very often to “move on”.

The United Nations General Assembly, in its resolution 68/179 (Protection of Migrants) dated January 28, 2014, has requested all States *“to enforce labor law effectively, including by addressing violations of such law, with regard to migrant workers’ labor relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association”*.

In the Declaration adopted by the General Assembly during the High-level Dialogue on International Migration and Development in October 2013, the governments arrived at a consensus to (a) promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status; (b) protect women migrant workers in all sectors, including those involved in domestic work; (c) respect and promote international labor standards and the rights of migrants in their workplaces; and (d) cooperate on labor mobility programs.

#### **IV. Human Trafficking and Human Smuggling**

As pointed out by Louise Shelley of the Migration Policy Institute in her Comparative Study on Human Smuggling and Trafficking into Europe on February 2014<sup>2</sup>, human smuggling and trafficking are rapidly growing transnational criminal activities that involve the recruitment, movement, and delivery of migrants from a sending region to a destination. The two activities are differentiated as follows: smuggled migrants have a consensual relationship with their smugglers and are free at the end of their journey, while trafficked persons are enslaved and exploited by their traffickers.

Smuggling and trafficking activities are on the rise in Europe. In 2014, the EU border management agency Frontex detected 141,000 illegal crossings. Given the demand to enter Europe due to work opportunities, perceived economic advantages, and dire political and economic conditions in many sending countries, it is unsurprising that human smuggling is on the rise. The problem has become a high priority for EU Member States, and is especially challenging given Europe’s relatively porous borders. Trafficking, too, is a large-scale problem. In 2010, there were an estimated 140,000 trafficking victims in Europe, generating \$3 billion annually for their exploiters.

Trafficked or smuggled migrants come from all regions of the world, and the primary transit routes are across the Mediterranean, and through the Balkans, Eastern Europe, and Turkey. Many of these are the same routes that are used for traded goods.

However, despite the steps of the Member States of the European Union in prioritizing their fight against the transnational criminal groups that facilitate trade in humans, human smuggling and trafficking continue unabated.

## **V. Migrants in Countries in Crisis Initiative: A Guide to Protecting Migrants**

Today, I would like to inform everyone about an ongoing state-led initiative called **Migrants in Countries in Crisis (or MICIC)** where European Union (EU) together with 7 other countries led by the Philippines and the United States are very much involved in.

This was launched right after the 2<sup>nd</sup> UN High Level Dialogue on Migration in 2013, where the need for an initiative to address the impact of acute crisis situations on migrants was pointed out by the UN Secretary General himself.

The MICIC working group is composed of 8 countries representing the different continents, multilateral organizations, the academe and the office of the Special Representative of the Secretary General (SRSG) for International Migration and Development. The initiative aims to define the issues, look at best practices, collect the evidence base, and propose a way forward to strengthen the international community's capacity to better manage situations where migrants suddenly have ended up in very vulnerable situations in countries in acute crisis, focusing on those that are due to civil unrest or natural disasters.

With the goals and objectives of the MICIC initiative in mind, EU proposed last year to fund 6 targeted regional consultations, organized outside the framework of existing regional processes. Two Regional Consultations were held in Manila for South and South East Asia and in Brussels for Eastern Europe and Central Asia, so far this year. The four other regional consultations will be held for West Africa, Southern Mediterranean and Middle East, Latin America, Eastern and Southern Africa. – Constantly echoing MICIC's call: **"to save lives, to increase protection, to decrease vulnerability, to improve responses."**

I am very pleased to share with you some of the guidelines that are relevant to the rights of migrants that were drawn from those consultations. Please note that these guidelines are still very much work in progress since there are still the 4 other regional consultations I mentioned and their respective inputs will be added to these guidelines.

### **Rights- related Proposed Guidelines (Work in progress) from the MICIC initiative**

States should encourage the development of policies, law, and procedures that incorporate the following guidelines, all of which apply to states, and many of which apply to other stakeholders such as employers, international organizations, local civil society, and others.

#### **A. Related to Crisis Preparedness**

- 1) Respect and protect the rights and dignity of migrants at all times in order to mitigate vulnerabilities and equip migrants to better protect themselves and one another in times of crisis and to make effective use of, responses by other stakeholders.

- 2) Comply with international obligations and standards that have a potential impact on migrants.
- 3) Undertake rights-based actions through all phases of a crisis.
- 4) Understand and assess the vulnerabilities of different categories and demographics of migrants, including those that may manifest particular needs based on age, gender, migration status, sexual orientation, and ensure interventions at all phases appropriately account for these aspects.
- 5) Empower migrants during all phases of a crisis by recognizing the fact that many migrants are not passive recipients of assistance but capable agents, resilient and creative in the face of adversities, and interested in taking charge of their own safety and actions, provided they are given the necessary information and support.

#### **B. Related to the Emergency Phase Response**

- 1) Ensure all responses prioritize the saving of lives, regardless of migratory status.
- 2) Provide non-discriminatory access to emergency humanitarian assistance.
- 3) Ensure freedom of movement and the ability to flee to safety and accordingly, facilitate evacuation, exit, and repatriation.
- 4) Ensure interventions are tailored according to the diverse needs of, different categories of migrants.
- 5) Recognize migrants as resilient actors, capable of mitigating risks themselves, and acting as first responders rather than mere recipients of assistance.
- 6) Activate mechanisms that enable timely, reliable and effective information to migrants, their families and other actors seeking to protect and assist them, in a language they understand and through different means. Over-communicate rather than risk under-communicating.
- 7) Ensure regular and effective coordination of the crisis response between relevant actors.

#### **VI. A Concerted Call for Action: Recommendations**

Allow me to reiterate the UN Secretary General Ban Ki-Moon's statement, that as *"the future does not belong to those who seek to build walls or exploit fears, let us all be a great partners in making migration an expression of the human aspiration for dignity, safety and a better future especially for international migrants."*

### **1. We must do more to protect the human rights of all migrants**

All forms of discrimination against migrants, including those related to working conditions and wages should be eliminated. There should be more channels for safe and orderly migration, and to seek alternatives to the administrative detention of migrants. By the way, the former is now one of the goals in the Sustainable Development Goals or the World's Development Agenda 2030.

Let us all ratify and effectively implement the relevant international legal instruments, including the ILO convention on domestic workers and the International Convention on the Rights of Migrant Workers and their Families.

### **2. We must end the exploitation to which migrants are vulnerable, including human trafficking**

These crimes often perpetuate vicious cycles of abuse, violence and poverty, to which women and children are particularly vulnerable.

The existing sound international legal framework to guide us in combating these crimes should be implemented.

### **3. We need to address the plight of migrants in countries in crisis**

I hope that the government-led initiative **Migrants in Countries in Crisis** should serve as a model for all stakeholders in responding to the conditions of migrants caught in crises, be it conflict or natural disasters.

### **4. We need to strengthen migration's evidence base**

Migration policies should be guided by facts, through reliable data rather than hearsay.

In doing this, there should be an enhanced building support to developing countries, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.

In conclusion, let me quote the High Commissioner for Refugees, Antonio Guterres: ***"For an age of unprecedented mass displacement, we need an unprecedented humanitarian response and a renewed global commitment to tolerance and protection to people fleeing conflict and persecution."***

Thank you for your kind attention.