

ELEVENTH COORDINATION MEETING ON INTERNATIONAL MIGRATION
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ORAL CONTRIBUTION

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What has been missing today, as is too often the case, are the voices of the migrants themselves. This is not particular to this forum. It is true of all debates on migration policies everywhere. Migrants are not citizens. They are the objects of the debate, not participating subjects in the discussions. This is in part the reason for the irresponsible political declarations that we often hear about migration.

The best way to reduce the political pressure created by the toxic electoral debates at national level is to squarely address the issues. And there are a number of fundamental human rights issues that I think should be part of the discussion at the HLD.

Without repeating what I said yesterday in my keynote presentation, which has been transmitted to IOM for dissemination and will be posted on the webpage of my mandate, I would like to outline four pressing migrants' rights challenges, which are clearly in need of enlightened discussions.

1. *Decriminalisation*: Irregular entry or stay should never be considered criminal offences: they may constitute an administrative offence, but they are not per se crimes against persons, or against property, or against national security. Irregular migrants, even smuggled migrants, are not criminals per se and should not be treated as such.

2. *Detention*: Many States consider systematic or large scale detention as a legitimate tool in combatting irregular migration. It is inefficient at deterring migration for the most part, because it doesn't respond in any way to the drivers of international migration. It results in many human rights concerns: overcrowded detention facilities, inappropriate detention conditions, lack of supervisory authority, extent of the administrative discretion granted to decision makers, violence in detention, lack of appropriate recourse mechanisms, etc.
3. *Children*: we should ensure the effective protection of the human rights of children at every stage of the migration process and in all migration management procedures. Children should always be treated as children first and foremost, and the principle of the best interest of the child should always guide all decisions regarding children, whatever their administrative status and circumstances. Avoiding the detention of migrant children, appointing legal guardians to unaccompanied migrant children, and giving them access to appropriate legal representation, education and health care services, should be key objectives.
4. *Labour rights*: Vulnerable migrants such as temporary migrant workers migrate because temporary labour opportunities are open to them, often in sub-par conditions. Similarly, irregular migrants respond to the important unrecognised labour needs and underground labour markets that exist within destination States for their work, at the exploitative wages and work conditions that local employers are offering. This exploitation is rarely adequately combated, because it conditions the competitiveness of economic sectors with low profit margins, such as agriculture, construction, hospitality, or domestic services. Reducing irregular migration should start by decreasing the pull factors and fighting labour exploitation, thus recognising migrant workers as workers first

and foremost, and empowering them to fight for their own rights. There was an editorial of the NYT precisely on this yesterday.

On these issues, as well as on the many other human rights challenges that migrants face, I would like to emphasize one element of Ambassador Ackerman's presentation this morning, when she said that we should "empower migrants", which I understand as meaning that we should recognize their agency as rights holders. Empowering individuals to fight for their own rights, by giving them access to the social, political and legal tools they need to protect their own dignity, has always been a winning strategy: for women, for minorities, for detainees, for indigenous peoples, etc. Helping migrants fight trafficking rings and smugglers' violence en route, supporting their fight against labour exploitation in destination States, Working with them at reducing xenophobic discourses and violence, and supporting and protecting the civil society organisation networks that help migrants, would go a long way towards reducing the human rights violations they endure daily.

I submit that this is a key message that should come out of the HLD.

Thank you