

# Regional Consultation on Migrants in Crisis

21-23 March 2015 — Metro Manila, Philippines

## REPORT



### Background

Since 2011, governments and intergovernmental organizations have focused their attention on situations in which migrants are adversely affected by emergencies and disasters that strike their countries of destination or transit. This global focus on what was then referred to as “stranded migrants” emerged in response to the large-scale evacuations of migrants during the Arab Spring uprisings and subsequent natural disasters in Japan (earthquake, tsunami, and nuclear disaster), Thailand (unprecedented flooding), Haiti (earthquake), United States (Hurricane Sandy), among others. These disasters and emergencies exposed significant deficiencies in the policies and procedures of both origin and destination countries in responding to the particular needs of migrants—documented and undocumented—to ensure their safety and to facilitate equitable access to assistance.

The “stranded migrant” concept gained political traction through efforts of the UN Special Representative of the Secretary General on International Migration, Peter Sutherland, at the 2012 Global Forum on Migration & Development (GFMD), who cited addressing the challenges of “stranded migrants” as a priority. Likewise, global civil society included stranded migrants in its 8-point, 5-year action agenda<sup>1</sup>, expanding the concept to include migrants in distress. Point 3 of the action agenda calls for:

...reliable, multi-actor mechanisms to address the assistance and protection needs of **migrants stranded in distress**, beginning with those trapped in situations of war, conflict or disaster (natural or man-made) but with the same logic and urgency with respect to migrant victims of violence or trauma in transit. This should include specific attention to egregious gaps in protection and assistance for migrant women who are raped, and the thousands of children that are unaccompanied and abused along the major migration corridors in every region of the world. Benchmarks could include further work and multi-stakeholder capacity-building on frameworks developed by agencies with such responsibilities including the international organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC), and the consolidation of relevant principles and practices under existing refugee, humanitarian and human rights laws.

The 8-point, 5-year action agenda served as the cornerstone of civil society advocacy at the 2013 UN High Level Dialogue on Migration & Development (UNHLD), and the “stranded migrants” priority was reflected in the UN Secretary General’s report during that process; the situation of stranded migrants was one of eight points of the Secretary General’s action agenda.<sup>2</sup>

An important outcome of the UNHLD was the establishment of a new state-led initiative to address the plight of stranded migrants, following the narrow interpretation of migrants caught in crisis situations. The newly formed “Migrants in Countries in Crisis Initiative” (MICIC) is led by the United States and the Philippines with the participation of Australia, Bangladesh, Costa Rica, Ethiopia, and the European Commission in partnership with the IOM, the UNHCR, Professor Susan Martin, and UN SRSG Peter Sutherland.<sup>3</sup> The MICIC initiative

<sup>1</sup> [http://hldcivilsociety.org/wp-content/uploads/2013/10/0261-HDL\\_The-5-year-Action-Plan-GB-web2.pdf](http://hldcivilsociety.org/wp-content/uploads/2013/10/0261-HDL_The-5-year-Action-Plan-GB-web2.pdf)

<sup>2</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/genericdocument/wcms\\_243383.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/genericdocument/wcms_243383.pdf)

<sup>3</sup> <http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/MICIC-Concept-Note-Final-2-14-14.pdf>

...aims to complement IOM's Migration Crisis Operational Framework (MCOF) by establishing principles and guidelines to define the roles and responsibilities of countries of origin and destination, neighbouring states, employers, international organizations, and civil society for the purpose of protecting migrants affected by acute-onset crises like civil conflicts, natural disasters, and man-made disasters.<sup>4</sup>

While civil society welcomes the initiative of governments to address the issues affecting migrants caught in crisis situations through the creation and implementation of sound procedural frameworks and response mechanisms, states must recognize that their responsibility extends to *perpetual crises* affecting migrant workers. State-led initiatives must also be in place to address these urgent situations.

#### **Regional Conference Objectives:**

- To provide an orientation for civil society on the MICIC Initiative and activities that form part of the initiative
- To formulate recommendations to the MICIC Initiative on rights-based, migrant-centred emergency response mechanisms
- To develop our advocacy strategy on expanding the MICIC framework to include perpetual crises affecting migrant communities

### **Migrants in Crisis: Expanding the Framework**

Day 1 of the consultation focused on CSO and government responses to migrants in crisis to further problematize the issue and expand the framework. Delegates from South East Asia, East Asia, South Asia, and West Asia shared their perspectives.

To have a good sense of the situation of crisis in each sub-region and how participants define crisis, participants were divided by sub-region. The small breakout session revealed that while each region has its own nuances, the situation of crisis for migrant workers covers the full cycle of migration from departure to return. Crisis for migrant workers is not only limited to natural calamities and conflict situations, but also on-going situations that migrants experience everyday—perpetual crises that create vulnerabilities that are exacerbated at the onset of external crisis—which is similar to what broader civil society is highlighting.

In terms of CSO and government responses to this issue, only a few governments from the region have policies or response mechanisms available, such as the Philippines, Thailand, Lebanon and Israel. Responses, however, are focused on acute-onset crises like civil conflicts, natural disasters and man-made disasters. In view of this, participants called on governments to look at the issue of crisis by addressing the root causes of the perpetual crisis experienced by migrants and to include human rights-based approaches that address the root causes of crisis.

In terms of natural and conflict situations, participants called for the following:

- Signing G2G agreements between countries of origin and countries of destination facilitating the return of migrants and coordinating swift comprehensive responses
- Advocating for easy exits strategies at the countries of destination
- Coordinating evacuation plans in case of emergency situations e.g., war, floods
- Advocating for comprehensive insurance schemes including health and recruitment insurance
- Coming up with comprehensive reintegration programs for returnee migrant workers, especially those who are victims of trafficking, suffering from mental illnesses, and who have permanent disability

With regard to addressing that crisis that migrants face everyday, participants highlighted the following recommendations:

- Ratifying and implementing relevant UN & ILO standards or conventions
- Reduce recruitment costs

<sup>4</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/genericdocument/wcms\\_243383.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/genericdocument/wcms_243383.pdf)

- Forging rights-based G2G agreements in a transparent manner, including TUs and CSOs in developing G2G agreements
- Ensuring that information about migrant workers' rights in destination countries be made available in languages that migrants can understand
- Supporting initiatives that promote eradication of gender-based violence
- Supporting calls and actions that call for the protection of migrant workers

Below are the highlights of the discussion in each sub-region.

Southeast Asia: In Southeast Asia, crisis experienced by migrant workers include natural disasters, conflict situations, epidemic outbreak and other situations that put migrants in vulnerable situations and how migrants perceive it.

Among the crisis discussed were the following- 2004 Tsunami in Thailand, 2011 Flooding in Thailand, the 2014 political crisis in Thailand, and the 2008 Asian Financial Crisis. Other situations that create crises for migrants include deplorable working conditions, non-payment of wages, physical and sexual abuse, arrest and detention, safety and occupational health hazards, and irregular status.

### **The Philippines**

In terms of government response, only the Philippines seems to have an integrated approach when it comes to crisis situations. The Philippines (through the Department of Foreign Affairs) adopted a one country approach, and is responsible for providing the needed intervention to migrants in crisis situation, as mandated by law, the Migrant Workers Act of 1995 R.A. and 10022 as amended. The current administration also established a special task force on ensuring the safety of migrants in crisis situations.

### **Thailand**

Thailand, on the other hand, responds to the issue of crisis situations (as seen in the 2004 tsunami, the 2011 flooding, and the 2014 political crisis) through ad hoc actions.

The Royal Thai Police have set up the Tsunami Victims Identification Center in order to collect the DNA of relatives of the dead or missing and to verify the identity of the deceased. The Royal Thai Police contacted and sought cooperation with the Lawyers Council of Thailand and local NGOs to help locate relatives of migrant workers who died or went missing from the incident. The police under the Tsunami Victims Identification are responsible for collecting DNA from the relatives of migrant workers.

In the case of the 2011 flooding, the Department of Employment (DOE) requested 5.2 million THB (about 173,000 USD) from the Repatriation Fund under the care of DOE in order to provide humanitarian assistance to migrant workers, such as setting up shelters and providing food and medicine.

Meanwhile, with respect to the political unrest in 2014, the National Council for Peace and Order reconvened the registration of irregular migrant workers during the period of 28<sup>th</sup> July 2014 – 31<sup>st</sup> March 2015. Such registration was applicable to workers and their accompanying children and parents.

### **Malaysia**

The Malaysian government's response to the issue depends on "who causes" the crisis- contributed by the worker or by the employer or agents. It was also pointed out that the Malaysian Labour Department only handles labour disputes .

According to the Labour department and Council for Anti Trafficking officers, Malaysia does not have any policies or protocols on providing assistance to migrants in crisis situations. Cases of migrant workers are handled by concerned ministries depending on their mandate, e.g., occupational health and safety cases are handled by the Labour Department.

South Asia: In this sub-region among the crises that were highlighted included the issue of climate change (particularly in the context of Bangladesh), the Arab Spring, the health situation of migrant workers in the Middle East, the situation of undocumented migrant workers both in Southeast Asia and the Middle East, and cross-border migration in the sub-region.

The Arab Spring revealed how unprepared governments from South Asia, except for India, were in terms of repatriating their nationals and providing them with the necessary psychosocial interventions as well as employment alternatives. Accordingly, migrant workers who were repatriated from Libya did not get any compensation.

Participants from South Asia also stressed the issue of the mental and physical health of migrant workers in the Middle East. They highlighted cases of heat stroke and deaths of migrant workers.

It was highlighted that governments should seriously look at the issue of climate change, which forces people to migrate and be displaced.

WARBE suggested that we should have a good sense of what the governments think about the issue of crisis for us to be able to come up with a critical analysis. They indicated that the health of migrant workers, particularly in the Middle East, must be addressed; migrant workers who suffer heat stroke; migrant workers who were repatriated from Libya did not get any compensation. The issues being looked at by the governments are situations that each government can easily pass on to international organizations/ situations that go beyond their capacity. WARBE also suggested that maybe the session should focus on the issue of climate change that forces people to migrate and be displaced.

West Asia: Participants from West Asia defined crisis as situations that pose a threat to the life, safety, and security of vulnerable migrant workers. Those situations threaten their mobility, ability to be gainfully employed, and to be reunited with their families.

Participants raised concerns about the kidnapping of migrant workers, which is a threat to the safety and security of vulnerable migrant workers. Governments should also recognize the plight of migrants who are detained (administrative and criminal detention), those affected by illnesses, those who are permanently disabled due to occupational and safety hazards, those who are undocumented, stateless children of migrant workers, and victims of forced labour and sex trafficking.

With respect to the health conditions of migrant workers, participants underscored the need for medical insurance. In Jordan, a recent insurance regulation (medical care) for migrant domestic workers was put into place. In Lebanon, it is mandatory to have insurance but employers connive with insurance companies. Maternity insurance is excluded in Lebanon. Domestic workers who become pregnant are not allowed to take maternity leave, although there is no provision that they cannot be pregnant. The policy is set such that pregnancy is not prohibited, but it is almost impossible to be pregnant and work as a migrant domestic worker. Deportation is usually the first resort when migrant domestic workers become pregnant to avoid further problems.

In terms of government policies or protocols, participants noted the lack of policies that address the issue of migrants in crisis. There is an absence of a coordinated or organised response to assist migrants in need. Issues of migrant workers are being handled by different ministries. In cases of conflict situations in the region, NGOs and INGOs play an important role, especially in evacuation efforts.

## **Responding to the Migrants in Countries in Crisis Initiative**

Secretary Imelda Nicolas, the Philippine government representative in the parallel event, introduced the MICIC framework. The Philippines and the United States are the current co-chairs of the MICIC Working Group with Australia, Bangladesh, Costa Rica, Ethiopia, European Commission as members. It is in cooperation with IOM, UNHCR, Office of the UN Secretary General (SRSG) for International Migration Peter Sutherland and Georgetown University- Institute for the Study of International Migration.

The working group, through a broad consultative process, hopes to classify and raise awareness on the issue of migrants in countries in crisis, collect the evidence base, define the roles and responsibilities of the governments (be it of origin, transit or destination countries) and the involvement of significant stakeholders. It also aims to collate good practices.

Migrants are the focus and main beneficiaries of the framework regardless of status since it is said that this particular group of people are excluded in the contingency plans of the country they are in; they do not even fall under a certain protection mandates. It is also irrefutable that usually migrants lack access to information, identity or travel documentation, consular, evacuation and reintegration services and often times they encounter difficulty in communication because of language barriers.

The scope of the MICIC initiative includes natural, man-made disasters, armed conflict or civil unrest. As mentioned earlier, this initiative deals with migrants specifically those who are caught in crisis situations with an overall objective to improve the capability of governments as well the other relevant stakeholders in preparing, responding and protecting the dignity and rights of migrants caught in “countries in acute crisis”

It was also emphasized that it requires different types of planning and responses for migrants in situations outside the categories given in the MICIC framework. The end result of the initiative is voluntary, non-binding guidelines and collation of effective practices.

#### **Open Forum:**

- The participants expressed concern about the non-binding nature of the MICIC. They raised the issue of accountability if the guidelines will be non-binding. If government organizations need to look at evacuation, they should aim for binding guidelines to ensure the governments respond and be more accountable in times of emergency situations. Participants urged the Philippines government to look at this issue and push this track given the fact that most of these emergency situations happen in destination countries. The speaker responded that the non-binding focus of the guidelines is to ensure speedy response. If governments will go for a binding instrument, the process will take time and involve a lot of process.
- Participants from the Philippines identified the issues of missing migrants during crisis/emergency situations as crucial, as missing migrants are seen as the most vulnerable group of Overseas Filipino Workers. According to Secretary Nicolas, they have not heard of any cases of missing OFWs and the embassies have immediate feedback of any incidents that may include OFWs
- Participants also highlighted that the Kafala system or employer- tied visa is a form of man-made crisis which needs to be addressed by governments to ensure that migrant workers’ right to mobility is not infringed. This system further fuels migrant workers’ abuse and exploitation.
- Participants also raised with Secretary Nicolas the possibility of considering the involvement of migrant workers in the next consultation or processes.
- Participants also highlighted the use of international standards, particularly the Vienna Convention for the protection of the rights of migrant workers with particular focus on women and children. This issue was raised in response to the non-binding nature of the guidelines that MICIC Initiative will try to come up with. Participants stressed that if governments are serious about saving lives and decreasing vulnerability of migrant workers, they do not have to recreate the wheel but use existing standards that are already in place.
- The issues of undocumented migrant workers were also highlighted by the participants. Secretary Nicolas said that undocumented migrant workers in conflict zones are a big challenge in the repatriation of migrant workers. Given this scenario, it was recommended that governments should not only look at the issue of undocumented migrants during emergency situations, but to respond to the issue holistically by regularizing undocumented migrant workers in “normal” times, not just in times of crisis.

- It was raised in day 1 that migrant workers who were caught in the Arab crisis were not given compensation and this was further aggravated when the Libyan currency was immediately devalued during the crisis. Participants stressed the need for this issue to be included in the government meeting.
- The issues of the lack of political will of governments were raised, especially in the context of the current crisis in the Mediterranean where people are dying at sea. It was noted that there seems to be lack of political will from governments to address the issue holistically. The EU recently reduced the budget for those who were affected while crossing the border; those who died in the process were given citizenship but those who survived were not. The speaker's response was if this issue is included in the discussion, the EU is unlikely to participate in the MICIC Initiative.
- The lack of consultation with CSOs in designing the concept of MICIC was also noted. The speaker responded that, in terms of the Philippines, the government has established a multi-disciplinary team in times of crisis; embassies are asked for contingency plans in case a crisis happens. Community leaders get in touch with the migrant workers. The Philippines has put in place a database of the whereabouts of migrant workers in each country particularly domestic workers. They have not heard of any cases of missing OFWs and the embassies have immediate feedback on any incidents that may include OFWs.

### **Developing responses to migrants in crisis: Issues and obstacles**

The participants were divided into two groups: country of origin and country of destination. Countries of origin include Bangladesh, India, Nepal, and the Philippines while countries of destination include Israel, Jordan, Lebanon, Malaysia, South Korea and Thailand. Each group deliberated on common crisis situations faced by migrant workers and the obstacles they face in responding to these crisis situations.

The issues in the countries of origin include: natural disaster, political crisis/ unrest/ war, financial crisis, militarization, epidemic outbreak, ISIS, cross border migration and death of migrant workers. Meanwhile, countries of destination highlighted the issue of tracing migrant workers, the gaps in pre-departure orientation sessions and the current unrest in some parts of the Middle East.

In terms of the obstacles, participants identified the following:

- Reintegration programs are not sustainable
- Priority was not given to migrant workers because countries of destination focus on their nationals
- Poor coordination among the government ministries and lack of funds to repatriate their nationals
- Governments do not have mechanisms/ contingency plans to address emergency situations
- Absence of bilateral agreements and/or embassies; if these exist, the mission does not have the capacity to respond to the emergency situations or repatriate their nationals
- Locating and identifying migrant workers, logistical limitations, and difficulty in transporting migrant workers. This was a huge obstacle, because government databases only include documented migrant workers and those who are in detention.
- Refusal of migrant workers to leave the country due to economic reasons and existing debts

### **Developing responses to migrants in crisis: Strategy Session**

William Gois led a strategy discussion on how to engage with the MICIC Initiative process. He acknowledged that CSOs and governments view crisis differently, with CSOs wanting to broaden the concept of crisis and governments wanting to restrict their initiative to responses to a particular kind of crisis. To assist participants in developing a strategy, he gave two different scenarios:

Full broadening of the framework: He stressed that if CSOs call for a full broadening of the framework, there is a possibility that the CSO position will not gain traction with the governments, as they will not entertain this possibility.

Supporting the MICIC concept: Agreeing to the narrowing of the concept and to try to improve the MICIC guideline outcomes. Here, CSOs will risk moving away from a human rights framework and therefore would only be engaging from a humanitarian perspective. This loses sight of the fact that gross human and labour rights violations continue to occur. CSOs do not want to let governments off the hook for those violations, and would essentially do so by accepting a narrowed framing.

The facilitator also emphasised that during emergencies, governments often take actions that would, in ordinary times, signal a commitment to protecting and promoting migrants' rights. For example, issuing exit permits for those who need to be evacuated, including undocumented migrants. This move could be taken in ordinary times. Another example is the conferring of citizenship upon those who died crossing the Mediterranean, but those who are still trying to cross or who have crossed do not have access to citizenship.

Upon lengthy deliberations and cognizant of the points above, participants decided to call for a broadening of the frame of crisis by pointing out that human rights must be respected at all times, not just in times of crisis. In so doing, the impact of crises on migrants will be mitigated, as they will have more tools at their disposal to respond and assist themselves. Migrants should be looked at as agents rather than as passive recipients of assistance.

See attached write-up that was validated by the group on Day 3 and used by CSO delegates in advocacy efforts during the MICIC meeting. The group agreed that this framing will be shared with CSOs organizing the next regional parallel consultation, such that they can add their regional perspectives and continue to push forward with our advocacy.

## **Recruitment Reform Campaign Review**

Karen Campbell led an interactive session on the Recruitment Reform Campaign, an MFA-led initiative in partnership with the Global Coalition on Migration (GCM) and the Migration and Development Network (MADE).

Karen explained the history of the campaign and the formation of the Open Working Group on Labour Migration and Recruitment. The Open Working Group was established in Stockholm, Sweden in a meeting with global civil society delegates during the Civil Society Days of the Global Forum on Migration & Development. The newly formed working group agreed that MFA would act as its secretariat. Its first activities were to set up a global knowledge base on recruitment (RecruitmentReform.org) and to conduct research on recruitment modalities globally.

The working group then met in Jordan in December 2014, where five campaign priorities were set: Zero Fees for Migrant Workers, Zero Tolerance for Contract Substitution, Human Rights in G2G Recruitment Regimes, Support for Ethical Recruitment Initiatives, and Data Collection and Research.

Kathryn Abrigo gave a virtual tour of the Recruitment Reform website, explaining its use as an aggregator of news, research, initiatives, and activities on migrant labour recruitment. She also explained her role as research assistant, describing the 12-country quantitative study that MFA is leading to compare recruitment modalities globally.

Karen explained that one of the initiatives of the working group is knowledge-sharing through an online discussion forum. She provided a tutorial on how to use the forum, and led a breakout session in which participants were invited to create an account and provide their inputs on the current discussion – Government-to-Government Agreements. As the internet connection in the hotel was unreliable, this session became mini-group discussions, and the collective inputs were gathered and posted to the forum.

**MICIC Initiative Meeting: Report from CSO Representatives**  
23-24 March 2015 — Metro Manila, Philippines

### **Day 1, MICIC Initiative**

William Gois, Najla Chahda, and Linda Al Kalash were the three civil society representatives invited to participate in the MICIC Initiative meeting. They carried our strategy and message into the government and inter-agency proceedings.

During the lunch break on Day 1 of the MICIC meeting (Day 2 of the CSO parallel meeting) William Gois provided an update on the MICIC process. He firmly reiterated that the governments are unwilling to broaden the “crisis” framing. The governments were referring to the daily crises of migrants as “personal crises,” which makes those crises sound superficial and not systemic—an analysis that we must critique.

The IOM is the secretariat for the MICIC, and the initiative is supported by the European Union with funds channelled through ICMPD. About five million Euros are allotted for the consultations. The capacity building stage would come after 2016. IOM’s presentation emphasized increasing protection and reducing vulnerability. However, except for one person, no one talked about human rights in the meeting in spite of the focus on protection and considering the fact that from the very beginning it all comes down to safeguarding of rights of the migrants.

William indicated that there was not much interaction during the session. Civil society representatives were not really given the opportunity to raise their concerns.

It was agreed that as a next step, we would consolidate our thinking, review our strategy, and at 5pm we would congregate in the lobby of the hotel where the MICIC process was taking place in order to speak with our governments as they departed for the day. Those who did not have government delegates present would sit with a representative of ICMPD to advocate for broader and more meaningful civil society participation.

### **Day 2 of the MICIC Process**

On Day 2 of the MICIC Process, William Gois was one of the invited panellists to speak on the involvement of migrant communities in post-crisis reconstruction. [See his speech attached](#), wherein he raises the “perpetual crises” that migrant workers face daily and strongly calls for respect for the human rights of migrants at all times. He stated:

Persistent human rights violations and ongoing systemic barriers to full integration and participation in the life of countries of destination create a stifling environment for migrants, as they are unable to realize the strength and potential of act an agency within their communities. If these barriers were removed and migrants were able to claim their power, they would be a significant force that is able to act with far greater effectiveness in collaboration with state-led initiatives, because for governments it is an operation, while for migrants it is survival. The practice established in ordinary times induces learning and courage to act in extraordinary times.

In breakout sessions, William, Najla, and Linda reiterated our calls for migrants to be respected as agents rather than as passive recipients of assistance.

In the summation of the MICIC consultation, the call for human rights in ordinary times to enable better responses in extraordinary times was reflected.

The next MICIC regional consultation will take place in Brussels in June. The inputs from these sessions will be shared with CSO partners in Europe to take the advocacy forward.