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SPECIFIC GROUPS AND INDIVIDUALS

**Written statement* submitted by Human Rights Advocates, Inc. (HRA),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 January 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

1. Human Rights Advocates (HRA) is concerned with migrants' rights to life, health and work.
2. The safety and fair treatment of migrant workers is a worldwide concern. By some estimates there are as many as 15 to 30 million undocumented migrants worldwide at any given time.¹ Most often, they leave their home countries to escape dire economic conditions, risking their lives for opportunity.
3. Overseas workers play a critical role both in sending and receiving countries by filling a niche in the labor market of developed countries and sending money home. In 2002, overseas workers sent \$80-billion dollars back to their home countries. For many countries, the money sent home totaled more than all foreign aid.²

Border deaths

4. The International Convention on Civil and Political Rights (ICCPR) recognizes the right to life and security of all people without discrimination. Additionally, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families provides protections specifically to migrants, although few developed countries have become parties to it.
5. Government policies that endanger the lives of migrants 1) by forcing them to take increasingly dangerous routes to cross borders or 2) by turning a blind eye to the costs of human smuggling are contrary to these international laws.
6. More than two thousand migrants have died in the past decade in the desert that separates the United States from Mexico.³ A tightening of US border enforcement in the 1990s and again after the September 11th terrorist attacks has forced migrants to take more hazardous routes. In 2003, a record 409 migrants died trying to make the border crossing.⁴
7. Since 9-11, the price smugglers charge to take migrants over the border has tripled. The profitability of smuggling has added a new danger for migrants. Kidnappers known as *bajaderos* have started taking migrants from their smugglers and holding them for ransom. In Southern Arizona, law enforcement officials say *bajaderos* are behind a wave of violence and death.⁵

¹ International Organization for Migration, Assisted Returns Service

<http://www.iom.int/en/who/main%5Fservice%5Fareas%5Fassisted.shtm>

² Devesh Kapur and John McHale, *Migration's New Payoff; Globalization at Work*, Foreign Policy, November 1, 2003.

³ *Summary of Migrant Civil Rights Issues Along the Southwest Border*, U.S. Commission on Civil Rights. April 2003.

⁴ Michael Martinez, *Experts: Plan May Cut Border Deaths; Current Strategy Criticized as Lethal to Illegal Migrants*, Chicago Tribune, January 11, 2004.

⁵ Charlie LeDuff, *After the Crossing, Danger to Migrants Isn't Over*, New York Times, November 11, 2003.

8. In 2003, more than 200 migrants from Cuba, Haiti and the Dominican Republic died trying to reach the U.S. by sea.⁶ As an indicator of how many are trying to reach the U.S., the Coast Guard's migrant interdictions were up almost 45-percent from 2002 to 2003. With 669 already in 2004, this could be an even deadlier year on seas for migrants.⁷

9. The U.S. President's plan to give millions of migrant workers renewable three year work visas if they have jobs, may help to reduce the number of deaths along the borders. But migrant advocates say it is unlikely many workers will register for a program that only guarantees three years of work and makes them easier to deport.⁸

10. Like the U.S., several European countries have increased border enforcement, forcing migrants to choose more dangerous routes to evade security. Most who died trying to get into the European Union in 2003 and in years past, were victims of drowning.⁹ The International Centre for Migration Policy Development (ICMPD) estimates as many as 2,000 people die each year trying to reach the southern shores of Europe.

11. In January 2004, 21 migrants died when a rubber dinghy bound for Italy capsized in stormy seas off the coast of Albania.¹⁰ Less than a week later, at least sixteen African migrants drowned after their boat hit a reef near Spain's Canary Islands just off the coast of Morocco.¹¹

12. Overland crossings have also proven dangerous. At least 26 Pakistani migrants died trying to cross the Evros River from Turkey into Greece in September 2003.¹² Seven more were killed later that same month when they tried to walk through a mine field to get from Turkey to Greece.¹³

Violation of workplace rights

13. The Migrant Worker Convention, the International Convention on Economic, Social and Cultural Rights (ICESCR), the ICCPR, and the International Labor Organization's, Conventions 97 and 143 all afford a variety of legal protections to migrants. These international laws protect them from slavery, threats and intimidation and give them the right to reasonable work hours, safe and healthy working conditions, fair wages, the right to form unions, and the right not to be discriminated against. Additionally, under Article 25 of the Migrant Worker Convention, they

⁶ Tracey Eaton, *A Cuban and His Dreams of a Better Life*, Dallas Morning News, December 17, 2003.

⁷ U.S. Coast Guard, 2003 Migrant Interdictions At Sea, www.uscg.mil/hq/g-o/g-opl/mle/amiostats1.htm#2000.

⁸ Richard W. Stevenson and Steven Greenhouse, *Plan for Illegal Immigrant Workers Draws Fire from Two Sides*, New York Times, January 8, 2004.

⁹ Olivia Ward, *People on the Move Generate Income but Human Suffering Casts a Long Shadow*, Toronto Star, January 4, 2004.

¹⁰ *21 Dead as Dinghy Capsizes Off Albania*, Reuters, January 10, 2004.

¹¹ *At Least 16 Dead as Immigrant Boat Sinks off the Canaries*, Agence France Presse, January 16, 2004.

¹² *Illegal Migrants Die in River*, BBC News Online, September 10, 2003

¹³ *Land Mine Deaths on Greek Border*, BBC News Online, September 29, 2003.

have the right to be treated no less favourably than nationals on issues like hours and conditions of work, holidays, safety, health and termination. Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination guarantees the right to work, favourable conditions for work and equal pay regardless of national origin. Yet, it is apparent from current statistics in various countries that migrant workers continue to be in dire need of protection.

14. As many as 12 million undocumented immigrants live in the United States. Farm work is typical of the poorly paid, back-breaking labor many migrants find upon arrival in the U.S. The average life expectancy of a farm worker is just 49 years.¹⁴ Half of all farmworkers earn less than \$7,500 USD per year.¹⁵ In comparison the average life expectancy in the U.S. population as a whole is 77 years.¹⁶ Median income is \$42,200.¹⁷

15. Only 27,000 of one million farm workers in the U.S. are unionized.¹⁸ Employers, the U.S. courts and government are making it increasingly difficult for migrants to form unions. In the 2002 case, Hoffman v. NLRB the Supreme Court barred an undocumented worker from receiving back pay after having been unlawfully fired for union activities. This decision violates the right to join unions granted in Article 22 of the ICCPR to which the U.S. is party.¹⁹

16. The Bush Administration's proposed guest worker program would also be an impediment to migrant worker unionization. Workers dependent on employers for their three year visa would be powerless to object to work conditions or pay for fear of deportation.

17. Examples of poor treatment of workers are plentiful. In 2003, California Rural Legal Assistance released the results of a survey of more than 785 California farm workers. It found that 28-percent were denied legally mandated rest breaks, 18-percent said they were denied meal breaks and 25-percent reported unexplained deductions from their pay.

18. Conditions on non-farm jobs are just as bad. In October 2003 federal agents raided Wal-Mart and found migrants working 12 hour days and sleeping in the store's backroom. Contractors recruited the migrants through overseas ads, charging them \$10,000, which they were forced to work off.²⁰

19. Work conditions for migrants in other countries are similarly bleak. In 2003, six Burmese migrant workers in Thailand were found shot, their bodies burned. Workers who saw the men

¹⁴ Agricultural Worker Charitable Trust, Fact Sheet, <http://www.awct.org/FactSheet1.html>

¹⁵ U.S. Department of Labor, National Agricultural Workers Survey, March 2000, http://www.dol.gov/asp/programs/agworker/report_8.pdf

¹⁶ U.S. Centers for Disease Control, Fast Stats, <http://www.cdc.gov/nchs/fastats/lifexpec.htm>

¹⁷ U.S. Census Bureau, Money Income in the U.S. 2001, <http://www.census.gov/prod/2002pubs/p60-218.pdf>

¹⁸ John Bowe, *Immigrants in the New Economy*, The American Prospect, July/August 2003.

¹⁹ Interamerican Court of Human Rights, Consultative Opinion, OC 18/3, September 17, 2003.

²⁰ Ann Zimmerman, *After Huge Raid on Illegals Wal-Mart Fires Back on U.S.*, Wall Street Journal, December 13, 2003.

being beaten disappeared from their factories for fear they would be killed to keep them from speaking out.²¹

20. In Malaysia, Singapore and Brunei where Indonesians and Filipinos frequently seek work, cases of abuse and unexplained deaths are also an issue. An Indonesian woman interviewed by a reporter, told of traveling to Malaysia to work and returning home two years later after her employer beat and raped her.²²

21. The oil-exporting Gulf States are home to nearly 10-million migrant workers. Employers frequently take away migrants' passports and residence permits, making it difficult for them to leave or report mistreatment.²³ In addition, Gulf governments have recently been making claims that migrants take jobs away from nationals.²⁴ This type of incendiary rhetoric is sure to encourage additional abuse of migrant workers.

Recommendations

22. Human Rights Advocates urges the Commission to continue to protect the lives of migrant workers by:

- a) Demanding that countries abide by international conventions requiring protection of migrant workers;
- b) Calling on sending and receiving countries to recognize the important role migrant workers play in their economies;
- c) Urging all sending countries to be advocates for their workers abroad and when possible, form bilateral agreements with receiving countries that protect the rights of migrants;
- d) Calling on developed countries to study the ways in which their border policies harm migrants and consider measures to minimize deaths;
- e) Asking the Special Rapporteur to study and make recommendations on strategies for border reform that will prevent migrant deaths;
- f) Encouraging receiving countries to work with sending countries to develop and fund awareness campaigns to warn migrants about the dangers of trusting their lives to smugglers and informing them about avenues for legal migration;

²¹ *Mae Sot Murders: Burma Demands Investigation*, The Nation (Thailand), May 25, 2003.

²² Dianthus Saputra Estey, *Indonesia Exports Migrant Workers*, Aljazeera.net, November 20, 2003.

²³ *World Bank Should Promote Treaty to Protect Migrants*, Human Rights Watch, September 19, 2003.

²⁴ *Middle East*, Migration News, October 2003, www.migration.usdavis.edu/mn/indes.php

- g) Asking governments to tackle the problems of human smuggling, involuntary servitude and workplace violations with additional resources and increased penalties for smugglers and employers.
