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COMMISSION ON HUMAN RIGHTS  
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**THE RIGHT TO DEVELOPMENT  
SPECIFIC GROUPS AND INDIVIDUALS: MIGRANT WORKERS**

**Joint written statement\* submitted by Caritas Internationalis, a non-governmental organization in general consultative status, and International Catholic Migration Commission, 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.

[14 February 2006]

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

## INTERNATIONAL MIGRATION AND DEVELOPMENT:

In September 2006, the United Nations General Assembly will hold a **High Level Dialogue on International Migration and Development**. The framework for this Dialogue has been adopted recently by the General Assembly, and envisages that one of the four Round Tables would focus on “measures to ensure respect for and protection of the human rights of all migrants, and to prevent and combat smuggling of migrants and trafficking in persons” (A/RES/60/227).

The focus that this round table topic puts on the human rights of migrants presents a particular interest in today’s migration context. Most major international bodies – Bretton Woods Institutions, United Nations agencies and Secretariat, World Trade Organization and International Organization for Migration – have given attention to the nexus between migration and development in the last decade. Yet, they have mostly highlighted the economic impacts of migration on the development of receiving and sending countries.

Only recently has the need for a rights-based approach to migration and development been expressed within the UN system. In his address to the United Nations High Commissioner for Refugees Executive Committee on 6 October 2005, Secretary-General Kofi Annan highlighted the crucial nature of international migration, “one of the big issues facing our world.” He also stated that neither development nor security can be enjoyed without respect for human rights. The draft International Labour Organization Multilateral Framework on Labour Migration adopted a rights-based approach to labour migration. The Global Commission on International Migration also advocated for a rights-based approach to international migration in its report of October 2005, calling on States to “strengthen the normative human rights framework” to deal with migration issues. More recently, the United Nations Committee on Migrant Workers held a Day of General Discussion during its 3<sup>rd</sup> session in Geneva, on “protecting the rights of all migrant workers as a tool to enhance development”. **We very much welcome the fact that the agenda of the 2006 General Assembly High Level Dialogue on International Migration and Development do contain a specific human rights component.** In addition to the specific Round Table focussing on the human rights of all migrants and members of their families, a rights-based approach would also enrich the debates in the three other Round Tables<sup>1</sup>.

Over the years, a number of landmark documents have been elaborated within the United Nations on relevant issues. As per Article 1 of the 1986 Declaration on the Right to Development, “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” This was reaffirmed by consensus at the World Conference on Human Rights in 1993. All persons thus have the right to find economic, political and social opportunities in their country of origin to live in dignity and achieve a full life. Further, the Declaration also states “the human person is the central subject of development and should be the active participant and beneficiary of the right to development.”

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<sup>1</sup> “The General Assembly (...) also decides that the themes for each of the four round tables will be the following: (a) Round table 1 will focus on the effects of international migration on economic and social development; (b) Round table 2 will focus on measures to ensure respect for and protection of the human rights of all migrants, and to prevent and combat smuggling of migrants and trafficking in persons; (c) Round table 3 will focus on the multidimensional aspects of international migration and development, including remittances; (d) Round table 4 will focus on promoting the building of partnerships and capacity-building and the sharing of best practices at all levels, including the bilateral and regional levels, for the benefit of countries and migrants alike”, A/RES/60/227.

The rights of migrant workers and members of their families are directly derived from the Universal Declaration of Human Rights. They were explicitly formalised in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). The Convention builds upon the two International Covenants on economic, social and cultural rights, and civil and political rights and reflects the non-discrimination approach embedded in all human rights instruments.

**The nexus between development and migration should be approached through the intersection between the right to development and all other human rights, to which all migrants are entitled.**

A focus on migration and the rights of migrants and their families could add to the efforts made within the human rights system of the UN to bridge development and human rights. In this respect, the paper prepared by Philip Alston as a contribution to the work of the Millennium Project Task Force on poverty and Economic Development entitled: “A human rights perspective on Millennium Development Goals” (MDGs), provides a useful analytical framework. In particular, Goal 8, “Develop a global partnership for development”, can provide a substantial entry point for international migration, in efforts to integrate human rights in meeting the MDGs. This global partnership encourages actors to actively work together, and could foster collaboration between countries of origin and countries of employment. It is worth recalling that, as foreseen in the 1994 Programme of Action of the United Nations International Conference on Population and Development, one of the objectives of international migration and development is “to encourage more cooperation and dialogue between countries of origin and countries of destination, in order to maximize the benefits of migration to those concerned and increase the likelihood that migration has positive consequences for the development of both sending and receiving countries.”

In addition, **elements for a rights-based approach** to migration and development are<sup>2</sup>:

**1) With respect to migrants in the country of origin:**

Often the lack of opportunities for a life in dignity and the lack of protection are the root causes of migration. The ideal situation for which the world must strive is one in which migration flows are driven by choice - as happens more commonly in North/North and North/South migration - and not by necessity. Paramount to this goal is the need to develop the economies of countries of origin. Elements to be considered for a human rights-based approach to the migration/development nexus in the country of origin include:

- Root-causes of migration: development of societies in countries of origin to help improve the general context for migration. Exploring transnational responsibilities of States to ensure that, especially, economic, social and cultural rights are fulfilled.
- Migrants have the right to leave any country, including their own and to return (Art. 8 and Art. 67 ICRMW).
- Migrants as actors in the development of their countries of origin including but not limited to economic development (i.e. social & other transfers).
- Family members remaining in the country of origin: mitigate risks of their exclusion from community development.

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<sup>2</sup> These elements for a rights-based approach to the migration/development nexus were prepared for a written contribution to the Day of General Discussion of the Committee on Migrant Workers on 15 December 2005: protecting the rights of all migrant workers as a tool to enhance development.

- Reintegration of returning migrants: importance of a community development approach; attention to the specific needs of forcibly returned migrants.
- Follow-up of migrants' proceedings of legal problems in the country of employment upon return to the country of origin.
- Remittances: regulation of fees; find more efficient modes of transfer; support and encourage migrants' initiatives to invest some of their earnings in community development, including building of infrastructures in the countries of origin.
- Migrant recruitment agencies: regulation of agencies in country of origin as well as in country of employment.
- Feminization of migration: attention to the special vulnerability of women migrant workers and their protection needs, in particular in domestic work, and at all stages of the migration process.

## **2) With respect to migrants in the country of employment:**

Full respect for the human rights of migrant workers and members of their families in the country of employment benefits development of both the country and its people. It strengthens social cohesion. It encompasses the social, cultural, economic, civil and political dimensions of life:

- The principle of non-discrimination forms the bedrock of the protection of the rights of migrants workers and members of their families: it not only guarantees access to rights, but contributes to the empowerment of migrants and their families in all aspects of their lives in the country of employment.
- Access to self-employment for migrants as an example of good practice.
- Respect for cultural rights as a two-way process for integration.
- Right to education, including access to higher education as a factor of development for countries of origin and of employment.
- Family as the natural and fundamental group unit of society (Universal Declaration of Human Rights, Art. 16.3): right to family-based migration.
- Legalisation of undocumented.
- Regardless of their legal status, migrants, like all persons, possess inherent human dignity that should be respected. Policies and practices that negate the dignity of migrant workers and members of their families are obstacles to the development of host societies and migrant communities.
- Legal avenues for all migrant workers and members of their families in the country of employment as a means to counter trafficking and smuggling of people and to avoid migrants getting indebted.
- Attention to the elderly migrants, including preservation of full pension rights upon return to country of origin.
- Brain drain – obligation of receiving country to mitigate the negative impact of the loss of highly skilled labour; explore good practices in co-responsibility of States.
- Remittances are private money: their contribution to development can not be regularised; fees from the transfer of remittances could be partly used for development.
- Obligations of countries of employment and their consequences on the development of countries of origin: exploring the concept of transnational responsibility of States regarding respect for the human rights of citizens of other countries, especially with regard to economic, social and cultural rights.

**We call on the Commission on Human Rights to emphasize the need for a rights-based approach to the migration/development nexus in its report to the ECOSOC and by contributing to the High Level Dialogue on International Migration and Development that will take place in September 2006. The Commission could in particular prepare a background document on the human rights aspects of the migration/development nexus. Both the Special Rapporteur on the human rights of migrants and the Special Rapporteur on trafficking in persons, especially in women and children, as well as members of the Working Group on the right to development, should be involved in the High Level Dialogue and its preparation.**

Finally, we wish to emphasize the need for civil society actors to get actively involved in the **one-day informal interactive hearings** that will take place before the High Level Dialogue on International Migration and Development. Given the very limited representation of NGOs foreseen for the actual Dialogue, efforts must be made to collaborate and coordinate our actions. In this regard, NGOs could, e.g., raise human rights concerns to, and advocate for a rights-based approach with the former WTO chief Peter Sutherland who was appointed Special Representative for Migration by Secretary-General Kofi Annan, to prepare the High Level Dialogue in September. He will help prepare an overview of the migration and development issues that should be released in May 2006. **We also want to highlight the need for an open and transparent process for the selection of NGO representatives to participate in the informal interactive hearings and the High Level Dialogue.** The process for selecting the NGO representatives to the hearings and the High Level Dialogue on International Migration and Development should take into account the rich and multi-faceted collective expertise shared amongst hundreds of NGOs around the world. In addition, the High Level Dialogue should make space for participation of representatives of migrant workers.

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