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Special Panel on “Human Rights and Migration”

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Working together for safe, dignified and secure migration

Address by

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Director General,
Chair,
Moderator,
Excellencies,
Distinguished delegates,
Ladies and gentlemen,

The plight of migrants, and particularly migrants in an irregular situation, is one of today's most critical human rights challenges.

While migration can and should be a positive and empowering experience for migrants themselves and for both the home and host societies, all too often the reality of migrants is one of discrimination, exploitation and abuse. Increasingly, the failure by States to effectively protect migrants against abusive practices results in serious human rights violations

The protection of human rights in the context of **migration will be one of the six priority areas** of the Office of the High Commissioner for the next biennium 2010-2011.

Our Office has consistently advocated for a human rights approach to migration. By this we mean the need to place human rights principles and standards at the centre of migration considerations and to make use of the human rights mechanisms and framework to protect migrant women, men and children from human rights violations at all stages of the migratory process.

Over the next biennium, we will step up our efforts to assist States in anchoring the management of migration more firmly in a human rights approach. In doing so, we will continue efforts to strengthen collaboration and build synergies with our UN sister agencies, the IOM, including through the Global Migration Group, and other key partners.

OHCHR will give priority attention to four critical areas related to migration, namely: (1) discrimination, xenophobia, racism and related intolerance against migrants; (2) economic, social and cultural rights of migrants; (3) immigration detention and criminalization of

irregular migration; and (4) the impact of the global economic crisis on the human rights of migrants.

Distinguished delegates,

Discrimination, xenophobia, racism and related intolerance are amongst the key obstacles hindering migrants' equal access to human rights in host societies.

Migrants, in particular low skilled and irregular migrants, often suffer exclusion, discrimination and abuse, including poor conditions in the workplace, lack of access to social services, justice, education, housing and health care. Women migrants are particularly vulnerable, being exposed to gender-based discrimination during all phases of the migration process. Moreover, women migrants often work in unregulated sectors, including domestic work.

Migrants are often targeted in hate speech, harassment and violence; blamed for societal problems, including crime and economic difficulties. Anti-migrant sentiments and xenophobic reactions are often reinforced by policies which present migrants as a problem and threat to national security, even if there exists a strong demand for migrant labour in the local labour market.

Another challenge for many migrants is inadequate protection of their **economic, social and cultural rights**, including their rights to housing, education, health, work and social security.

Specific laws discriminating against non-nationals along with programmes and policies that fail to address specific needs and vulnerabilities of migrants often result in migrants and their families being unable to access basic services or only at levels that do not meet international human rights standards.

Measures of immigration control may also deter migrants in an irregular situation from accessing basic human rights, such as health care, education and housing, out of fear of detention and deportation. In such cases, even if human rights of migrants are protected by the law, migrants in an irregular situation may not enjoy these rights in practice.

Obstructing access to services, institutions and goods that give effect to economic, social and cultural rights, not only represents a violation of migrants' human rights, but also an obstacle to their inclusion and integration into society, impairing their ability to become fully active members of their new communities.

The issues of **immigration detention and criminalization of irregular migration** were most recently discussed by the Human Rights Council in September this year, recognizing the grave impact of such practices on the rights of migrants and their families.

Although the deprivation of liberty should be a measure of last resort, migrants irregularly arriving in a new country are often detained as a routine or even a mandatory procedure, often without proper judicial safeguards. All too often, detained migrants are not adequately informed about their rights or do not have the right or capacity to challenge the legality of their detention before an independent court.

The United Nations General Assembly recognized this serious problem in its resolution 63/184, adopted in March this year, when it called upon all States to respect the human rights and the inherent dignity of migrants and to put an end to arbitrary arrest and detention. The General Assembly also called on States to review detention periods in order to avoid excessive periods of detention of irregular migrants through appropriate reviews and, and to adopt, whenever possible, alternative measures to detention.

Related to the issue of immigration detention is the worrying tendency to criminalize irregular migration and, more generally, to associate migration with crime. The Office of the High Commissioner for Human Rights, the Working Group on Arbitrary Detention, the Special Rapporteur on the human rights of migrants and other human rights mechanisms have stressed that infractions of immigration rules do not make a person a criminal and that criminalizing irregular stay in a country exceeds the legitimate interest of States to control and regulate irregular immigration.

The association of irregular migration with criminality serves to promote the stigmatization of migrants and encourage a climate of xenophobia and hostility towards migrants. We should therefore avoid referring to "illegal immigrants", but rather use the

internationally accepted terms of “irregular” or “undocumented” migrants, which more accurately describes the situation of not having, or having lost, the proper documents allowing them to reside in a given territory or to work there. Among other things, it should be clearly understood that most migrant workers in an irregular situation perform jobs which are legal and much needed in the countries in which they work, such as building houses, harvesting fruit and taking care of children the sick and elderly.

Finally, **the global economic crisis** has further accentuated the vulnerability of migrants to human rights violations.

Migrant workers have been particularly affected by raising unemployment, not only because of their, at times, precarious legal status but also because they are employed in sectors that are particularly affected by the crisis. The economic crisis has also resulted in reinforced protectionist measures and an increasing crack down on irregular migrants.

Calls to reduce the migrant population in destination countries tend to be based on the perception that “migrants take jobs” or “compete for welfare benefits”. Yet, evidence shows that migrant workers create economic activity and jobs and can potentially make an important contribution towards overcoming the economic downturn. Policies which present migrant workers as a problem, rather than as a part of the solution to the current economic crisis risk fuelling xenophobia, anti-migrant sentiment and discriminatory practices, and driving migration further underground.

In sum, the range of critical human rights challenges related to the situation of migrants underlines the urgent need to give human rights a central place in international migration considerations. Migration policies and practices must be rooted in human rights.

We are confident that the combined efforts of the United Nations system and the IOM will contribute to strengthened policies, legislation and practices to protect the human rights of migrants.

I thank you for your attention.