

RECOMMENDATIONS OF CIVIL SOCIETY REPRESENTATIVES FROM THE SOUTH AND THE NORTH FOR THE SECOND EU- AFRICA MINISTERIAL CONFERENCE ON MIGRATION AND DEVELOPMENT ON NOVEMBER 25, 2008

General approach to migration and development

OUR APPROACH TO MIGRATIONS

We, civil society representatives from the South and from the North, refuse to let humanity be divided into those who can move freely and those who are prevented from doing so. Migration has always been a human phenomenon and constitutes an invaluable social, cultural and economic contribution.

That contribution, although historically acknowledged, is eclipsed by security and economic demands which translate into general distrust and suspicion of foreigners, as demonstrated by the recent adoption of the “return” directive by the European Parliament.

This radicalisation and increased focus on security aspects is contrary to the values that are emblematic of the European Union: democracy, respect for human rights and freedom of movement. Migrants are, above all, women, men and children who have rights. Those rights cannot be denied solely on the pretext that a person has no papers. The individual and collective freedoms of every one of us are threatened when the civil, political, economic, social and cultural rights of foreigners are restricted.

Past periods of free movement of persons, in Europe, for example, have shown that it limits neither the sovereignty nor the security of States. The pursuit of a security-based approach, therefore, leads nowhere.

Migration enables bridges to be built between societies. It is high time that the issue of migrations and development was genuinely considered in terms of mutual interests, those of migrants, first and foremost, and those of the countries of origin, of transit countries, and of host countries, in a manner that is consistent with international instruments for the protection of human rights.

We must no longer leave the question of migration in the hands of the States alone, particularly the States of the North, when the economic and financial crisis threatens to increase poverty further and could strengthen xenophobia and violence in migrants’ host and transit countries.

We do not want a Europe that responds by turning itself into a fortress and imposes its “European pact on immigration and asylum” without consulting the countries of the South and civil society.

OUR APPROACH TO DEVELOPMENT

Development is much more than economic growth alone. It is crucial to include non-economic factors such as respect for human rights, well-being, social cohesion, the fight against discrimination, stability, peace, as well as democracy and respect for States’ sovereignty and environmental protection. The States, whose main mission, among other, must be to secure access to basic services for all, must promote a people-centred view of development. Migrants are not meant to be mere instruments in the globalisation of labour markets.

In addition, lessons must urgently be drawn from the limits of the neo-liberal globalisation system which leads to:

- increasing gaps in per capita income between Europe and Africa;
- increasing food insecurity in all countries and particularly in the countries of the South;
- a system of indebtedness organised by the States of the North and international financial institutions (IMF and the World Bank) which keeps the States of the South under the supervision of the great economic world powers;
- States which retreat from the provision of access to basic services;
- failure to take into account climate change and its implications for populations in consequence of the development of economies with little care for the environment.

All these factors of destabilisation and insecurity lead to internal and international population displacements and migrant workers being exploited in the name of competitiveness. Sky-rocketing oil and food prices, as well as the financial crisis, are threatening to delay further the achievement of the Millennium Development Goals and to increase migration, while at the same time borders are being sealed.

The governments of the North, with the complicity of the governments of the South, bear a heavy responsibility for the disorders in the world. The ecological, economic and global financial crisis, and its corollary, the food crisis, demonstrate the failure of the current global system, which generates poverty and increases the North-South imbalance. It is absurd that the only response given to migrants should consist of militarised borders and detention camps.

OUR APPROACH TO THE DEVELOPMENT AND MIGRATION NEXUS

The development and migration nexus cannot be summarised as a relationship of cause and effect, whereby more development leads to less migration. The relationship is much more complex. Migrants are agents for social change; enabling migration contributes de facto to the development of countries of the South as well as of the North, through the exchange of knowledge, ideas and wealth that migration generates.

Migration and development policies must reinforce one another instead of opposing or being subordinate to one another, so as to enable migrants and countries of origin, transit and destination countries to benefit fully from international migration. The right to mobility is one of the conditions for development and for the reduction of inequality and poverty in the South, as well as in the North. Development policies cannot therefore be used in order to restrict the freedom of movement of persons.

A truly global approach to migration and development must be multilateral and focussed on human dignity, people's security and the universality of rights. It must respect the Universal Declaration of Human Rights of 1948, the 60th anniversary of which is celebrated this year. As reaffirmed by the final declaration of the African Parliamentary Conference on "Africa and migration: challenges, problems and solutions":¹ "States shall guarantee to all persons found on their territory, without any kind of distinction, the rights stated in international instruments, particularly the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Geneva convention on the status of refugees".

It is for us, civil societies of the North and of the South, together to devise other migration and development policies and to demand that they be based on justice and respect for rights and human dignity.

We want bridges, not walls!

¹ Final Declaration of the African Parliamentary Conference "Africa and migration: challenges, problems and solutions", Rabat, Morocco, 22-24 May 2008.

Proposals

1 - NORTH-SOUTH DIALOGUE ON MIGRATIONS

A truly global approach, which favours positive synergies between migration and development, can be built only through a fair dialogue between origin, transit and host countries, on the one hand, and between civil society and the State, on the other. It is essential to engage in a broader and more balanced dialogue between the North and the South, and between governments and civil society, starting with migrants and their organisations.

WE CALL FOR:

- respect for the principle of equality of representatives in all bilateral and multilateral negotiations on migration and development;
- migrants and their organisations to be given the resources to enable them to question, sensitise and mobilise the State and public opinion, and for the involvement in this debate of all stakeholders, starting with migrants and their organisations and, more generally, civil society as a whole: associations, trade unions, churches, researchers etc.;
- the inter-governmental dialogue within the framework of the Global Forum on Migration and Development to be placed under the aegis of the United Nations, so as to ensure that it can rely on international human rights obligations, in particular the Geneva Convention, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Declaration on the Right to Development, and that there is in this process more interaction between States, migrants and civil society.

2 - NORTH-SOUTH RELATIONS, DEVELOPMENT MODELS AND MIGRATIONS

Most migrants are women, men and children who are forced to leave their country because of disorders in the world: poverty, unfair international commercial trade, climate change, unemployment caused by the privatisation of public services, wars and conflicts, failure of democracy.

The focus on immigration, which is portrayed as a danger and a threat, masks the often ignored problem of the countries of the South being kept in poverty by, among other, the looting of their natural resources, the support given to dictatorial regimes and the corruption thereby generated. Foreign companies also have a social responsibility in that area.

The immigration debate also overshadows the ecological debt incurred by the North vis-à-vis the South through the monopolisation of resources, its heavy share of the responsibility for climate change and the increasing fragility of the territories and economies of the South (over-consumption, pollution, promotion of biofuels ...).

It is unacceptable for the States which bear a responsibility for that state of affairs to respond to the aspirations of the majority with nothing but walls and camps, while, on the other hand, a small proportion of the world enjoys freedom of movement and greatly benefits from it.

Therefore,

WE CALL FOR:

A redefinition of North-South relations in the context of respect for international law, the Universal Declaration of Human Rights and development of the rule of law, and, in particular:

- the immediate adoption of measures designed to establish the effective and unconditional right to development, as defined by the Declaration on the Right to Development adopted by the United Nations in 1986, and the achievement of the Millennium Development Goals;
- unconditional cancellation of the debt of the countries of the South and the return of ill-gotten gains, and the establishment of citizens' audits in the countries of the North as well as in the South;
- an effective increase of the percentage of GDP dedicated to Overseas Development Assistance (ODA) and the respect of commitments entered into and greater transparency of funds reserved for ODA;
- the cessation of all interference (political, military, economic) by the States of the North vis-à-vis the States of the South, which means leaving societies in the South to choose their own leaders and their own development models;
- the systematic involvement of people and civil societies of the North and of the South in the definition of development and development aid policies, as well as in their implementation;
- environmental migration to be anticipated and taken into account and for the countries of the South to demand recognition of the ecological debt owed to them by the North;
- the establishment of mechanisms to ensure food self-sufficiency and an end to agreements which jeopardise the future of agriculture in the South and, in particular, African agriculture;
- multinationals to be subject to the same rules of conduct when they trade and manufacture in the South as when they operate in the North;
- combating financial speculation, tax avoidance and capital flight.

A different approach to synergies between development and migration, and, in particular:

- policies of cooperation and financial assistance to be defined so as not to link them to short-term objectives of reducing migration and, in particular, an end to all conditions imposed on African countries in bilateral or multilateral negotiations, particularly that of outsourcing the fight against “illegal” migration;
- an end to the inclusion as part of the ODA of funds used in running migration security or the reception of asylum-seekers and refugees in the countries of the North. We urge the States of the North, on the contrary, to contribute as much as migrants send, for the benefit of those involved in development in the South;
- acknowledgement of the fact that every deportation constitutes a threat to development in the South;
- the capacity of migrants and their organisations to be strengthened to ensure that they are more involved in development actions and that they are in a position to influence the definition and implementation both of migration and of development policies;
- the actions of migrants and their associations to be valued not only in their country of origin but also in their host country, particularly through their increased participation in decentralised cooperation, and beyond an excessive focus on remittances;
- the rejection of States’ interference in the use of such remittances, which are not in any event a substitute for ODA and States’ responsibilities towards development in their own countries and the sound management of their own resources;
- access for all migrants to a greater variety of cheaper and more secure means of transferring savings.

3 - MOVEMENT OF PERSONS

Repressive and deterrent measures are, in the long term, ineffective against migration, the causes of which are manifold and deep-rooted. Not only do they adversely affect human rights but they are ineffective as a means of combating the so-called “draught” effect and, all too often, lead to human tragedies. The origin of migration lies in the structural inequality between departure and arrival countries; it cannot be stopped by the general detention of migrants, as is provided for in the “return” directive adopted by the European Parliament in June 2008, or by expulsions that are not in the interests of the host or transit countries or countries of origin. On the contrary, we take the view that each deportation is, in reality, a threat to development in the South. The best way to prevent people from boarding boats to seek their fortune or from living in hiding is, on the contrary, to promote opportunities for legal migration, and to regularise the position of undocumented persons in the countries in which they live and work.

Regarding the so-called “fight against irregular migration” WE CALL FOR:

- the application of Article 13 of the 1948 Universal Declaration of Human Rights² and consequently the abolition of all barriers to leaving a territory, the abolition of the offence of irregular emigration, the decriminalisation of irregular stay as well as of the help given to those who are trapped in an irregular stay;
- an end to the militarisation of African borders imposed by the European Union and to the funding and disproportionate deployment of control mechanisms at external European Union borders, and particularly to the Frontex mechanism;
- an end to the detention of irregular migrants and asylum-seekers and, for the time being, the implementation of parliamentary control mechanisms and unconditional access for human rights organisations to any place where migrants are detained and to all existing blockade systems at borders, in order to ensure that civil society has a say in what is happening in those places;
- the withdrawal of the return directive by the Member States of the Council of the European Union;
- African governments to demand the withdrawal of that directive as a pre-condition for their cooperation in the context of EU-Africa relations and, in particular, on the occasion of the Euro-African Ministerial Conference on Migration and Development, to be held on 25 November;
- an end to negotiations and the cancellation of readmission agreements to remove migrants and send them to origin and/or transit countries, and of readmission clauses in wider negotiations relating to development or legal migration;
- human rights organisations to be given unconditional access to borders, and the implementation of independent mechanisms of enquiry and legal proceedings regarding all tragedies and deaths occurring at borders;
- the implementation of a transferable justice system to enable removed persons to claim their rights: recovery of their bank deposits, salaries, personal belongings, social rights available in the host country, legal proceedings in cases of exploitation or violence etc.

² Art 13.1: “Everyone has the right to freedom of movement and residence within the borders of each State.”
Art 13.2: “Everyone has the right to leave any country, including his own, and to return to his country.”

Nationals of the countries of the North do not generally encounter many difficulties in obtaining visas and papers when they wish to migrate and settle in other countries, particularly in the countries of the South. Why should it not be the same for nationals of countries of the South?

Regarding the right of movement and settlement WE CALL FOR:

- the adoption of measures to establish and/or preserve the freedom of movement and free choice of country of residence;
- the withdrawal of all legislative or de facto measures aimed at restraining emigration, in violation of the right of each individual to leave any country, including his/her own (Article 13 of the Universal Declaration of Human Rights);
- the regularisation of undocumented persons;
- acknowledgement of the importance of diverse forms of mobility by developing an approach to migration that takes into account the possibilities and constraints of migrants, and of origin, transit and host countries;
- vigilance to ensure that such an approach to mobility is not subject to the prior reinforcement of security-based types of migration management;
- the introduction of migration policies that are adapted to current mobility patterns and allow greater flexibility in terms of visas and residence permits (multiple entry, long-term duration, possibility of being away for more than a year without loss of residence permit and social benefits);
- greater transparency in the visa issuance process and implementation of fair and effective recourse mechanisms in the event of a visa being refused;
- the fight against “brain-drain” not to be used as an excuse to deprive people of the possibility of migrating or settling elsewhere;
- immigration to be, first and foremost, the choice of migrants themselves.

4 - MIGRANTS' RIGHTS

States are obliged to guarantee, without any kind of distinction, the implementation of the rights enshrined in international instruments. Therefore,

WE CALL FOR:

- ratification by all States of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as ILO Convention No 97 on Migration for Employment and ILO Convention No 143 on Migrant Workers, and for compliance therewith of national and European legislation;
- a halt to all outsourcing measures relating to border controls which do not provide any guarantee of full compliance with international human rights conventions;
- the protection of the rights of migrant workers and their families and access to information about their rights before, during and after migration;
- the protection of the right to family life and the abolition of all obstacles to family reunification;
- the implementation of integration policies based on a two-way interactive reception process, and taking account of European laws against discrimination;
- all migrants to have access to full citizenship and for legislation concerning migrants to be based on the equal rights of all citizens. In the short term, we demand that conditions which apply to Community residents, in particular the right to vote, be extended to all foreign residents;
- the non-subordination of the issue or renewal of residence permits to employment contracts;
- equal rights as between foreign and national workers and, in particular, effective access to health and education, together with decent working conditions and an effective system of justice guaranteeing the exercise of those rights, equal access to all social policies for all within the same country, irrespective of nationality or duration of stay;
- the transferability of social rights during migration and, in particular, the recovery of rights arising from social security contributions for removed persons;
- foreign students to be granted residence permits of a duration corresponding to that of their period of education or training, rather than being renewable annually, and the mutual recognition of degrees or diplomas and qualifications.

5 - MIGRANT WOMEN

Women are playing an increasing role in migration. More and more women are taking the decision to migrate, making their contributions to origin and host countries. However, their contributions remain largely overlooked and their rights violated. Moreover, because of security measures throughout their migration, they pay a high price in terms of violence of all kinds.

WE CALL FOR:

- women to be recognised as having a legal status that is independent from that of their husbands, whatever the reasons for their stay and, in the context of the host country's legislation, with reference to situations in which the receipt or renewal of a resident permit is subject to the situation of the spouse;

- respect for equality of men and women at work;
- an analysis of the consequences of policies of outsourcing “migration flow management” on the development of trafficking networks and violations of women’s rights;
- the protection of victims of all violence in transit and host countries by the provision of residential status;
- greater recognition of the contribution of women to “co-development” by strengthening networks of women’s associations and providing more resources and visibility to their actions in national and international discussions and in the organisations of association representatives.

6 - VULNERABLE MIGRANTS

A growing number of children leave their country without being accompanied by an adult, whether as a result of a personal or family decision. Rules and regulations deem these unaccompanied minors to be foreigners rather than children, and expose them to all kinds of exploitation: increasingly long and dangerous journeys, refoulement, insecurity in host or transit countries. These minors must be given protection and be welcomed and valued. The same applies to anyone in a vulnerable situation, such as victims of human trafficking and people who are sick or disabled. We particularly denounce the refusal of certain doctors to provide medical care, the refusal of certain educational establishments to provide schooling, and teachers or carers who breach professional secrecy.

WE CALL FOR:

- the international Convention on the Rights of the Child to be ratified and respected in departure, transit and host countries;
- in that respect, the unconditional protection of children from expulsion and detention, and for the repatriation of minors and the creation of detention centres for unaccompanied minors to be prohibited;
- the prohibition of any practice of identifying the age of migrants which is designed to deem minors to be adults;
- respect for the right of child and young adult migrants to an education and to training leading to a qualification, irrespective of their administrative status;
- young adults to be able to choose to live in their host country until adulthood and to obtain automatically, if necessary, residence permits or, if they wish to return to their country of origin, to be properly accompanied;
- an immediate end to detention and refoulement of pregnant women and people who are sick;
- an analysis of the consequences of policies of outsourcing “migration flow management” on the development of trafficking networks and violations of children’s rights;
- residence permits, for protection and assistance to be granted in transit and host countries to victims of trafficking and vulnerable migrants;
- the same standards of protection to be applied with regard to minors in the overseas territories;
- the proposed integration of the “Versini” plan³ as a framework for protection into European policies relating to minors;
- programmes to be developed to encourage the media – who all too often stigmatise stray foreign minors – to take more responsibility.

³ “Social emergency and inclusion” plan introduced in France in October 2003 by the Secretary of State for combating insecurity and exclusion, Dominique Versini.

7 - RIGHT TO ASYLUM

There is nothing, at first sight, to distinguish a migrant from an asylum-seeker or a refugee on their journey of migration. The strengthening of border controls and the pressure on transit countries to “control migration flow” by restricting migrants’ access to the territory of the European Union also impedes access for people in search of protection, and challenges the right to asylum.

WE CALL FOR:

- the States to respect their obligations in relation to the application of the 1951 Geneva Convention and international provisions guaranteeing the protection of human rights, particularly the non-refoulement principle, and the exercise by asylum-seekers and refugees of their basic rights;
- rejection of the delivery of subsidiary or “sub-legislative” protection; there must be only one refugee status giving rise to full and comprehensive protection;
- a broad interpretation of “refugee”, to include, in particular, victims of infringements of economic, social and environmental rights;
- freedom of choice of host country for asylum-seekers and, specifically, for the abolition of the Dublin Regulation and the concept of the “safe country”;
- the abolition of all policies aimed at outsourcing outside Europe – for example, to countries which have not ratified the Geneva Convention – the processing of asylum applications, and/or at restricting asylum-seekers’ access to Europe;
- all statutory refugees systematically to be granted complete freedom of movement and settlement as well as protection worldwide;
- access to family reunification, training, employment, health and social services for all asylum-seekers and refugees, as well as to opportunities for labour migration;
- whereas persecution or the risk of persecution arises, essentially, in respect of entire populations or even whole societies of certain countries, we ask for the Geneva Convention concept of the “social group” to be applied to asylum-seekers from those countries, wherever they choose to seek such protection.