



International Federation for Human Rights

4th Global Forum on Migration and Development Mexico, 2010

FIDH recommendations

Background

On 8-11 November 2010 the Global Forum on Migration and Development (GFMD) will meet for the fourth time, in Puerto Vallarta, Mexico, following meetings in Brussels, Belgium (2007), Manila, Philippines (2008) and Athens, Greece (2009).

The GFMD is an inter-governmental consultative process open to all UN Member States. The process is state-led, voluntary, non-binding and informal. The GFMD is the only inter-governmental forum that exists at the international level to discuss migration policies and practices.

The Forum was launched following the UN General Assembly High Level Dialogue on International Migration and Development in 2006. In 2013, the UN General Assembly will reconvene a High Level Dialogue to discuss the future of the Forum.

The GFMD is organised by the host government and the agenda is fixed by states (available at www.gfmd.org/mexico-2010). NGOs and other civil society actors participate in a separate forum, organised by a foundation selected by the host government. NGOs must submit an application to participate. Alternative events are organised each year by NGOs in parallel to this process open to all civil society organisations. This year, the Peoples' Global Action and numerous other events will take place in Mexico City on 2-5 November (see www.accionglobalmexico.org).

For the past four years, FIDH has participated in the official forum in order to monitor the evolution of this process and contribute to recommendations. FIDH has also participated in alternative events.

Comments on the process

The structure of the official GFMD meetings has generated criticism from NGOs, in particular concerning the limited opportunities for exchanges between governments and civil society. Governments meet behind closed doors, in which NGOs cannot participate even as observers. Although there have been some improvements, culminating, at this year's Forum in Mexico, in the inclusion of a short session (« open space ») in which both governments and NGOs will participate, it remains regrettable that the GFMD has not provided more effective opportunities for dialogue between key actors including states, NGOs, trade unions, businesses etc.

The framework and content of meetings has also generated serious criticism from NGOs, in particular concerning the lack of a rights-based approach to the issues under discussion. Although there has been some progress over the past four years, in terms of including human rights considerations, it remains the case that the human rights of migrants are not at the centre of debates. Even as we mark the 20th anniversary of the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families this year, one of the nine core UN human rights treaties, many states continue to resist inclusion of any explicit reference to the Convention within the GFMD process.

It is difficult to assess the outcome of previous Forums. The objectives of the GFMD remain very general and, in accordance with the non-binding, voluntary nature of the process, no concluding statements or declarations have been published.

Many NGOs insist that the GFMD must be brought back within the formal mandate of the United Nations¹.

FIDH's recommendations

FIDH considers that discussions at the GFMD must be governed by a rights-based approach to international migration. FIDH is concerned that linking the issues of migration and development can contribute to an economic and utilitarian approach to migration, in which migrants are treated as « commodities », and discussion of their human rights is marginalised. FIDH underlines that the aim of economic development must not be to reduce or prevent migration, but to improve living conditions and thereby to ensure that migration is not forced but is based on choice. Discussions on migration must take place within the human rights framework established by international law.

The meeting of GFMD is an occasion to recall the key principles, derived from existing international human rights law and instruments, that must inspire all migration policies in states of departure, transit and arrival.

12 key principles

- All migration policy must be based on international human rights and labour law, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Migrant Workers Convention) and the International Labour Organisation (ILO) instruments including Conventions 97, 143 and the eight fundamental conventions. All states must ratify these key international instruments.
- All migrants, regardless of their migration status, must be guaranteed protection of their fundamental human rights, at all stages of the migratory journey, including the rights to :
 - life, liberty and security of the person, freedom from arbitrary arrest or detention and the right to seek and enjoy asylum from persecution ;
 - freedom from discrimination ;
 - protection from abuse and exploitation, protection from forced labour and freedom from torture and cruel, inhuman or degrading treatment or punishment ;
 - fair trial and legal redress ;
 - protection of economic, social and cultural rights, including the right to health, an adequate standard of living, social security, adequate housing, education, and just and favorable conditions of work² ;
 - protection of family life ;
 - leave any country, including one's own, and to return to one's country.
- Irregular migration status must never be considered as a criminal offence. Collective expulsions are strictly prohibited.
- For the purposes of judicial and administrative decisions, all migrants have the right to legal advice and representation, to interpretation and to appeal.
- The right to protection of family life implies that states must not impede family reunification.

¹ Currently the only process bringing together the Heads of the main UN agencies is the Global Migration Group (GMG). It is composed of 14 agencies (12 United Nations agencies, the World Bank, and the International Organization for Migration), see www.globalmigrationgroup.org. Part of the GMG's mandate is to make recommendations to the GFMD.

² See also Statement of the Global Migration Group on the Human Rights of Migrants in Irregular Situation, adopted 30 September 2010.

- States must facilitate opportunities for regular migration, taking into consideration that restrictive migration policies contribute to irregular migration and exploitation of migrants by criminal groups. States should remove obstacles to short duration migration and facilitate long term migration. States should facilitate regularisation of legal status and the possibility to apply for citizenship for all migrants regardless of their legal status.
- States must take all necessary measures to fight xenophobia and combat stereotypes, at all levels. Incitement to racial hatred, including by state actors, must be severely sanctioned.
- International bodies must strongly condemn and take measures to sanction state policies which contribute to, or even encourage, xenophobia and stigmatisation of migrants.
- Formulation of migratory policy should be strictly separated from anti-terrorism and national security considerations.
- States must take all necessary measures to protect migrants from exploitation and abuse, at all stages of their migratory journey, including by employers, recruitment agents and state actors.
- Labour migration and asylum policies must be strictly separate. States must put in place asylum policies that effectively protect the rights of asylum seekers and refugees, in accordance with the Convention relating to the Status of Refugees of 1951 and Protocol of 1967. States should eliminate obstacles and facilitate opportunities for asylum seekers to claim asylum. The principle of non-refoulement is absolute and must be respected in all cases.
- Whilst states have primary responsibility for protecting human rights, companies have the responsibility to respect all human rights of all persons, at all times throughout their operation, as recognized by States and by companies themselves, in particular within the context of the work of the United Nations Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises. Companies must thus take all necessary measures to protect the rights of migrant workers at all levels of the supply chain.