



PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES  
TO THE UNITED NATIONS AND OTHER INTERNATIONAL  
ORGANIZATIONS, GENEVA

NV-EPG-304-2017

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to OHCHR's Note RRDD/DESIB/PO dated 23 October 2017, has the honor to provide the views and comments of the Republic of the Philippines to the draft principles and guidelines on the protection of the human rights of migrants in vulnerable situations. The inputs of the Philippines were a result of multi-stakeholder consultations at national, regional and international levels.

The preparatory processes on the Global Compact for Safe, Orderly and Regular Migration (GCM) at the national, regional and international levels have put great emphasis on human rights-based approach in migration governance. Discussions at the national and regional levels have also highlighted that more than the adoption of the document itself, the successful implementation of the GCM is critical. The set of principles and guidelines drawn directly from international human rights laws and standards complemented with good practices presented in this document would provide concrete and practical guidance to States and other stakeholders towards the fulfillment of their commitment in the Global Compact.

Attached is a four-pager printed document, for OHCHR's ready reference. The MS Word version of the inputs was sent to [registry@ohchr.org](mailto:registry@ohchr.org), copy furnished to [poberoi@ohchr.org](mailto:poberoi@ohchr.org) and [pbotta@ohchr.org](mailto:pbotta@ohchr.org), as requested.

The Philippines requests that these views and comments be incorporated in the OHCHR report that will be presented during the 37<sup>th</sup> Session of the HRC in March 2017.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 24 November 2017

**Office of the United Nations High Commissioner for Human Rights**  
United Nations Office at Geneva  
CH 1211, Geneva



**COMMENTS/INPUTS OF THE  
REPUBLIC OF THE PHILIPPINES  
TO THE  
DRAFT PRINCIPLES AND GUIDELINES WITH PRACTICAL GUIDANCE  
ON THE  
PROTECTION OF MIGRANTS IN VULNERABLE SITUATIONS**

The Government of the Republic of the Philippines would like to express its affirmation to the proposed draft *Principles and Guidelines with Practical Guidance on the Protection of Migrants in Vulnerable Situations* developed by the Global Migration Group's Working Group on Human Rights and Gender Equality.

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We are, thus, pleased to provide the following inputs (IN CAPITAL and highlighted in yellow, for easy reference) to the draft Principles and Guidelines on the protection of migrants in vulnerable situations. Majority of these inputs were derived from the consultations that the Philippines' Commission on Filipino Overseas attended with fellow migrant-serving government agencies and other stakeholders at the national and regional levels in relation to the GCM, in particular on the issue of human rights of all migrants, social inclusion, cohesion and all forms of discrimination, including racism, xenophobia and intolerance.

**Principle 1: Human Rights**

- Ensure that human rights are at the centre of efforts to address migration IN ALL ITS PHASES, including responses to large and mixed movements REGARDLESS OF STATUS.
- **Guideline 3.** Ensure that LOCAL, national, regional and international policy making on migration is subject to oversight, including parliamentary OR JUDICIAL scrutiny; publish all bilateral agreements, readmission agreements and memoranda of understanding relevant to migration. Ensure that international cooperation consistently complies with the obligation to respect, protect and fulfil human rights, including migrants' rights, and that such cooperation is never made conditional on measures that unlawfully or disproportionately restrict or penalize migration or migrants.
- **Guideline 5.** Ensure that it is not a criminal offence to leave, enter or stay in a country irregularly, given that border crossing and the management of residence and work permits are administrative issues. Any administrative sanctions applied to irregular entry should be proportionate. HUMANE necessary and reasonable, and should never include the detention of children. Ensure that migrants are not subject to criminal prosecution for having used the services of

smugglers. GIVEN THAT IRREGULARITY ENHANCES VULNERABILITY, HUMAN RIGHTS PROTECTION MUST LIE AT THE CENTER OF POLICY OPTIONS CONSIDERED IN ASSISTING MIGRANTS IN IRREGULAR SITUATION.

## **Principle 2: Counter all forms of discrimination against migrants**

- **Guideline 4.** Use correct and neutral terminology to describe migrants and migration, and promote migration policies that draw on evidence-based research that considers the human rights of migrants as well as their impacts on and contributions to countries of origin, transit and destination. PROMOTE CONTINUED LOCAL, NATIONAL, REGIONAL AND INTERNATIONAL DISCUSSIONS ON THE SUBJECT OF HUMAN RIGHTS AND MIGRANTS' CONTRIBUTION. Research should examine, inter alia, impacts on and contributions to social and cultural life and diversity, economic growth, employment generation, social security programmes, entrepreneurship, and taxation and investment.
- **Guideline 7.** Create or strengthen independent institutions and mechanisms, including specialized national bodies such as national human rights institutions or ombudspersons, to monitor and report on discrimination against migrants. Ensure that all ombuds offices that have relevant mandates consider the intersection of migration with their areas of focus. SET UP NATIONAL OR REGIONAL MONITORING PLATFORMS AND COMPLAINT MECHANISMS OR HELPLINES TO PROMOTE ACCOUNTABILITY AND ACCESS TO ASSISTANCE.

## **Principle 4: Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance**

- **Additional Guideline for consideration.** HUMANITARIAN ASSISTANCE SHOULD BE PROVIDED TO PEOPLE AFFECTED BY A CONFLICT OR A NATURAL DISASTER, INCLUDING MIGRANTS, ON THE BASIS OF NEED, WITHOUT DISCRIMINATION, AND REGARDLESS OF IMMIGRATION STATUS, NATIONALITY, ETHNICITY, GENDER, AGE, DISABILITY, OR OTHER DIFFERENTIATING CHARACTERISTICS.
- **Additional reference.** Migrants in Countries in Crisis Initiative (MICIC) *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* ([https://micicinitiative.iom.int/sites/default/files/document/micic\\_guidelines\\_english\\_web\\_13\\_09\\_2016.pdf](https://micicinitiative.iom.int/sites/default/files/document/micic_guidelines_english_web_13_09_2016.pdf)), and the *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (<https://nanseninitiative.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-1.pdf>) resulting from the Nansen Initiative.

## **Principle 5: Ensure that all border governance measures protect human rights**

- **Guideline 6.** STRENGTHEN INTERNATIONAL COOPERATION TO IDENTIFY PROTECTION NEEDS AT BORDERS, PARTICULARLY WHEN THE STATUS OF THE PERSON SEEKING ADMISSION/ENTRY/READMISSION IS UNCLEAR. Establish practical and effective mechanisms to assess the

individual human rights situation of all migrants and prevent or suspend any expulsion until assessment and appeal processes have been completed: As necessary, such assessment can take place prior to, alongside or at the same time as interviews to establish asylum claims. Such assessments should operate without prejudice to a person's right to seek asylum. An assessment mechanism should:

**Principle 8: Uphold the rights of migrants to liberty and protect them FROM all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.**

- **Guideline 7.** Ensure that all places where immigration detention might occur are effectively monitored by independent mechanisms which have an explicit human rights mandate to protect the rights of migrants deprived of liberty, including ESPECIALLY children, and prevent and address any act of torture or other form of ill treatment and violence, INCLUDING GENDER-BASED VIOLENCE.

**Principle 10: Guarantee the human rights of all children in the context of migration, and ensure that child migrants are treated as children first and foremost.**

- **Additional guideline for consideration.** IN THE CONTEXT OF CONFLICT AND DISASTER, CREATE CHILD-FRIENDLY SPACES IN RECEPTION PLACES, SHELTERS, CAMPS, AND CENTERS FOR MIGRANTS TO ACCOMMODATE SPECIFIC PSYCHOSOCIAL, HEALTH, AND OTHER NEEDS OF CHILDREN.

**Principle 14: Guarantee the right of migrants to work, in just and favorable conditions.**

- **Guideline 2.** Ensure that migrants do not suffer discrimination and enjoy equality of treatment with nationals. All workers without distinction should enjoy equal terms and conditions of employment with respect, inter alia, to wages, workplace rights, social representation including trade union rights, recognition of skills and qualifications, and social protection. ENSURE THAT MIGRANT WORKERS' RIGHT TO BE ISSUED AN EMPLOYMENT CONTRACT OR PROPER DOCUMENTATION BY RELEVANT AUTHORITIES/BODIES AND/OR EMPLOYERS WITH CLEAR AND BASIC TERMS OF EMPLOYMENT SUBJECT TO NATIONAL LAWS, REGULATIONS AND POLICIES. Take steps to ensure that migrants do not suffer occupational discrimination, recognizing that many, especially migrant women, are compelled to work in the informal economy and are often excluded from the protection of national labour laws. Take appropriate measures to prevent discrimination against women migrant workers on the grounds of family status, marital status, legal partnership status, or pregnancy, including the prohibition of dismissal on such grounds.

**Principle 19: Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and the right to privacy.**

- **Additional guideline for consideration.** DEVELOP MEASURES ANCHORED ON ETHICAL PRINCIPLES TO FACILITATE INFORMATION SHARING ON

MIGRANTS IN DISTRESSED SITUATION BETWEEN COUNTRIES OF  
ORIGIN, TRANSIT AND DESTINATION.