



REGULAR PATHWAYS AND IRREGULAR MIGRATION

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ACTION POINTS

Recognize that in the absence of adequate, rights-respecting regular migration pathways, people who need to move for livelihood or other reasons will still do so and must not be criminalized for it.

1. Change the narratives - towards a reconceptualization approach

The discourse trying to demonize migrants, seeing them as a disease and as criminals, must be defeated. The demonization of migrants – particularly those who are undocumented or with irregular status – is used by various actors as “permission” to deny them their rights and, in some cases, to exploit their vulnerability.

We should also have a deeper understanding of what freedom and liberty means, particularly in the context of immigration detention.

2. Unpack irregular migration into different thematics (intersectionality)

Advocating for the rights of undocumented migrants to access health care, education, social services, justice, fair working conditions, and services specifically targeted at children enables a holistic framing that goes beyond seeing undocumented migrants as mere subjects of migration enforcement.

A holistic approach to undocumented migrants' rights also enables health professionals, social workers, education officials, labor inspectors, the justice system and other professional entities to uphold the rights of undocumented migrants within the broader groups they are working with. Various states have enacted legislation – some of which already exists for decades – to enable undocumented migrants' access to health care and undocumented children the right to attend school. Nonetheless, to ensure that undocumented migrants are not threatened with or actually deported if they access services or the justice system, firewalls need to be put in place – a clear separation between immigration enforcement and services and the justice system.

An intersectional approach seeks to overcome multiple forms of discrimination and advocates for measures which would specifically target all of these forms of vulnerability. An intersectional approach can enable for a deeper understanding of how various forms of discrimination (due to gender, sexual orientation, religion, ethnic or social origin, disability, age, or other grounds) as well as irregular migration status can further disempower undocumented migrants.

3. Pushing for the principle of non-discrimination

Look deeper into the asymmetry that exists globally, which is also a legacy of colonialism and historic ties between states and which forms the basis for the current visa and readmission schemes between countries. Building a collective understanding amongst civil society of how race and migration plays a current role in the global level discourse on migration, and particularly on irregular migration, will be crucial for advocates in moving forward on these issues. Addressing xenophobia is also part of this effort, in which state and civil society efforts must be encouraged and funded.

4. Moving forward with a multilateral approach

Work with different stakeholders and actors at different levels. There are good examples which can perhaps be replicated or adapted. While migration is governed at the state level, in some states regional level governments have the power to determine access to certain services and such governmental bodies may show progressive approaches in determining undocumented migrants' access to such services. City level governments also play a key role concerning undocumented migrants' human rights and have developed progressive policies in different global contexts towards undocumented migrants.

Regional agreements are also interesting examples of the possibilities of expanding regular pathways and their positive impacts.

5. Family Reunification

On family reunification, there are too many administrative barriers for children to reunite with their parents. It's too expensive to provide information or proof that you're actually a member of someone's family; for example, you have to take a DNA test. There are high-income requirements with too short deadlines, so it often means that even though EU has this directive, in practice, it's very hard to actually achieve family reunification.

6. Temporary labour migration

There is a tendency for Member States to maximize and utilize temporary labour migration as sort of a way to sort of further distance themselves from their obligations to migrants. There have been a number of reforms over the recent years, but none of them is sort of at the heart of what the Kafala is, and they're often implemented alongside other reforms which are always going to ensure that there is an element of control over migrant workers. There is also the tendency to exclude domestic workers in their policies and this is where advocacy needs to be done in ensuring and including the rights of domestic workers.

7. Regular pathways and climate change

In many situations, the impacts of climate change, as well as the border closures and economic consequences of the COVID pandemic will be increasing these pressures. We need to identify examples of regular pathways for climate change migrants. Those who are displaced across borders due to climate change impacts should be able to do so in a regular, protected way.