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Human Rights Council

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Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council*

18/21

The human rights of migrants

The Human Rights Council,

Reaffirming the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Vienna Convention on Consular Relations, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the relevance of these treaties in the protection of all migrants,

Recalling also previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the protection of the human rights of migrants, and the work of various special mechanisms of the Council that have reported on the situation of human rights and fundamental freedoms of migrants,

Recalling further the importance of the decent work agenda of the International Labour Organization, including for migrant workers, the eight fundamental Conventions of that Organization and the Global Jobs Pact adopted by the International Labour Conference

* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its eighteenth session (A/HRC/18/2), chap. I.

at its ninety-eighth session, as a general framework within which each country can formulate policy packages specific to its situation and national priorities in order to promote a job-intensive recovery and sustainable development,

Recalling General Assembly resolution 65/170 of 20 December 2010, in which the Assembly acknowledged the important nexus between international migration and development and the need to deal with the challenges and opportunities that migration presents to countries of origin, transit and destination,

Acknowledging the successful negotiation of International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers, adopted on 16 June 2011,

Recognizing the efforts made to ensure respect for the human rights and fundamental freedoms of migrants,

Reaffirming the resolve to take further measures to ensure respect for and protection of the human rights of migrants, migrant workers and members of their families,

Bearing in mind the obligations of States under international law, as applicable, to exercise due diligence to prevent crimes against migrants, including those perpetrated with racist or xenophobic motivations, to investigate such crimes and to punish the perpetrators, and that not doing so violates – and impairs or nullifies the enjoyment of – the human rights and fundamental freedoms of victims, and urging States to reinforce measures in this regard, including international cooperation,

Bearing in mind also that the exercise of human rights and fundamental freedoms may only be subject to limitations and restrictions as provided by international law,

Recalling that migrant workers are among the most vulnerable in the context of the financial and economic crisis and that remittances, which are significant private financial sources for households, have been negatively affected by rising unemployment and weak earnings growth among migrant workers in some countries of destination,

Expressing concern that female migrant workers engaged in domestic services are among the most vulnerable groups of migrant workers, some of whom are subject to a widespread pattern of physical, sexual and psychological abuse and exposure to health and safety threats without adequate information about associated risks and precautions,

Expressing concern also at the fact that the vulnerable situation of migrants may result in violations of their human rights in countries of origin, transit and destination,

Recalling the Global Forum on Migration and Development process, including the debates on migratory mobility, which emphasize the importance of facilitating access to regular forms of migration and, where applicable, to social services, including health, that contribute to the strengthening of the personal development prospects and outcomes for migrants and their families,

Considering that migrants who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers, and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and the need to protect the human rights of migrants, particularly at a time when migration flows have increased in the globalized economy and take place in a context of new security concerns,

Mindful of the fact that, in the fulfilment of their obligations to protect human rights, States of origin, transit and destination can benefit from schemes of international cooperation,

1. *Takes note* of the report of the Special Rapporteur on the human rights of migrants;¹
2. *Calls upon* States that have not yet signed, ratified or acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to consider doing so as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;
3. *Stresses* the obligation of States to protect the human rights of migrants, regardless of their legal status, and also to take into account the principles and standards set forth in relevant international instruments that protect labour-related human rights;
4. *Expresses its concern* at legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;
5. *Calls upon* all States to ensure that their immigration policies are consistent with their obligations under international human rights law;
6. *Reaffirms* the fact that all migrants are entitled to equal protection by the law, and that all persons, regardless of their migratory status, are equal before the courts and tribunals and, in the determination of his/her rights and obligations in a suit at law, are entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;
7. *Also reaffirms* the rights set forth in the Universal Declaration of Human Rights and the obligations of States under the International Covenants on Human Rights and, in this regard, strongly condemns the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, reinforce existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;
8. *Requests* all States to firmly protect the human rights of migrants relating to their conditions of work, regardless of their migratory status, in particular the right to equal pay for equal work;
9. *Stresses* that migrants have the right, without any discrimination, to just and favourable conditions of work and should have the appropriate means to pursue that right, including through the protection of the rights to peaceful assembly and to freedom of association;
10. *Reaffirms* that, once a migrant assumes an employment relationship, regardless of their immigration status, the State in which he or she is employed has the obligation to ensure the respect of their labour-related human rights, as contained in the international instruments to which the State is a party;
11. *Welcomes* programmes and policies implemented by some States of destination that promote the full respect of the labour-related human rights of migrants, regardless of their immigration status, as well as initiatives of States of origin to promote labour markets;

¹ A/HRC/17/33.

12. *Urges* all States to strengthen measures to protect the human rights of migrant workers in times of humanitarian crisis;

13. *Encourages* countries of origin, transit and destination to seek technical assistance and/or to collaborate with the Office of the United Nations High Commissioner for Human Rights to better promote and protect the human rights of migrants;

14. *Requests* the Special Rapporteur on the human rights of migrants to continue his efforts to promote and support the building of greater synergies between States to strengthen cooperation for the protection of the human rights of all migrant workers and their families;

15. *Also requests* the Special Rapporteur to continue to report on best practices of States to protect the human rights of all migrant workers.

37th meeting
30 September 2011
[Adopted without a vote.]