

## مجلس حقوق الإنسان

## الدورة السادسة والثلاثون

١١-٢٩ أيلول/سبتمبر ٢٠١٧

البندان ٢ و٣ من جدول الأعمال

التقرير السنوي لمفوض الأمم المتحدة السامي لحقوق الإنسان  
وتقارير المفوضية السامية والأمين العامتعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية  
والاجتماعية والثقافية، بما في ذلك الحق في التنميةتقرير عن مجموعة المبادئ والممارسات الجيدة والسياسات المتعلقة  
بالهجرة الآمنة والمنظمة والنظامية تماشياً مع القانون الدولي لحقوق  
الإنسان\*\*

## موجز

طلب مجلس حقوق الإنسان إلى مفوض الأمم المتحدة السامي لحقوق الإنسان أن يقدم إليه تقريراً عن مجموعة المبادئ والممارسات الجيدة والسياسات المتعلقة بالهجرة الآمنة والمنظمة والنظامية وفقاً للقانون الدولي لحقوق الإنسان. ويركز التقرير بوجه خاص على المجالات المواضيعية الستة التي استرشدت بها المشاورات في العملية التحضيرية لوضع اتفاق عالمي بشأن الهجرة. ويقدم التقرير مجموعة غير حصرية من المعايير القانونية وغيرها من التوجيهات ذات الحجية، مثل التعليقات العامة وتقارير الإجراءات الخاصة، والالتزامات المشتركة التي قطعتها الدول في الإعلانات والاتفاقات الأخرى، فضلاً عما صدر من مبادئ توجيهية وأدوات عن كيانات الأمم المتحدة والمنظمات الدولية الأخرى. ويقترن التقرير بقائمة من الممارسات الواعدة المستمدة من جميع المناطق.

\* يعتمد مرفق هذا التقرير كما ورد.

\*\* قدم هذا التقرير بعد المهلة المحددة نظراً إلى أن قرار مجلس حقوق الإنسان ١٧/٣٥، الذي يمثل أساس ولاية التقرير، اعتمد بعد المهلة المحددة لتقديم التقارير التي سينظر فيها المجلس في دورته السادسة والثلاثين.



ويختتم التقرير بتوصية من المفوض السامي مؤداها أن الاتفاق العالمي يجب، قبل كل شيء، أن يكون المهاجرون محوراً له وأن يكون قائماً على حقوق الإنسان ومراعياً للاعتبارات الجنسانية. فذلك من شأنه أن ييسر الهجرة الآمنة والمنظمة والنظامية، ويكفل الإدماج الاجتماعي، ويضمن التوافق مع الأهداف الرئيسية لخطة التنمية المستدامة لعام ٢٠٣٠ بعدم ترك أحد خلف الركب والوصول أولاً إلى من هم أشد تخلفاً عن الركب. ويمثل الإطار الدولي لحقوق الإنسان الأساس المعياري الذي ينبغي أن يشاد عليه الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية. ووفاءً بما يعد به إعلان نيويورك من أجل اللاجئين والمهاجرين، ينبغي أن يسعى الاتفاق العالمي، في المقام الأول، إلى التشجيع على اتباع نهج قائم على حقوق الإنسان إزاء الهجرة، والاستناد إلى مبادئ العالمية وعدم التجزؤ والمشاركة والمساواة والمساءلة.

## أولاً - مقدمة

١ - طلب مجلس حقوق الإنسان، في الفقرة ١٨ (ج) من قراره ١٧/٣٥ المتعلق بحماية حقوق الإنسان للمهاجرين: الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية، الذي اعتمد في ٢٢ حزيران/يونيه ٢٠١٧، إلى مفوض الأمم المتحدة السامي لحقوق الإنسان أن يقدم إليه، قبل انعقاد دورته السادسة والثلاثين، تقريراً عن مجموعة المبادئ والممارسات الجيدة والسياسات المتعلقة بالهجرة الآمنة والمنظمة والنظامية وفقاً للقانون الدولي لحقوق الإنسان، بالتشاور مع الدول وغيرها من الجهات المعنية، بما في ذلك المنظمات الإقليمية ومنظمات المجتمع المدني والمؤسسات الوطنية لحقوق الإنسان، وأن يحيل التقرير إلى الجمعية العامة في دورتها الثانية والسبعين.

٢ - وبناءً على ذلك، وجهت مفوضية الأمم المتحدة السامية لحقوق الإنسان، في ٢٩ حزيران/يونيه ٢٠١٧، مذكرة شفوية إلى الدول الأعضاء والمنظمات الحكومية الدولية والمنظمات غير الحكومية، التمسست فيها آراءها ومعلومات عن المسألة. وأشار بوجه خاص إلى المجالات المواضيعية الستة المحددة في العملية التحضيرية للاتفاق العالمي بشأن الهجرة الآمنة والمنظمة والنظامية. ووردت ردود خطية من الدول والمنظمات الحكومية الدولية والمنظمات غير الحكومية ومن فرادى الخبراء<sup>(١)</sup>.

٣ - ويهدف هذا التقرير إلى تقديم مجموعة<sup>(٢)</sup> من المعايير القانونية والتوجيهات الأخرى ذات الحجية، مثل التعليقات العامة والتقارير الصادرة عن هيئات الأمم المتحدة لحقوق الإنسان

(١) وردت ردود خطية من الأرجنتين والاتحاد الأوروبي وأستراليا وألمانيا وتركيا وجمهورية مقدونيا وسري لانكا وسلوفينيا والسويد وسويسرا وشيلي وقيرغيزستان وكندا ومالي والمكسيك ونيوزيلندا والولايات المتحدة الأمريكية واليونان. ويمكن الاطلاع على جميع الردود في: <http://www.ohchr.org/EN/Issues/Migration/Pages/CompendiumOfPrinciples.aspx>.

(٢) يراد بتعبير "Compendium" (مجموعة) عادةً تجميع لمعلومات موجزة لكن مفصلة عن موضوع بعينه أو لمحة وجيزة عن حقل من حقول المعرفة (انظر [www.merriam-webster.com/dictionary/compendium](http://www.merriam-webster.com/dictionary/compendium)).

والمكلفين بولايات في إطار الإجراءات الخاصة<sup>(٣)</sup>، فضلاً عن المبادئ التوجيهية والأدوات الصادرة عن كيانات الأمم المتحدة وغيرها من المنظمات التي لها ولايات ذات صلة، على أن تكون متماشية مع القانون الدولي لحقوق الإنسان ووثيقة الصلة بمسألة الهجرة الآمنة والمنظمة والنظامية. ولكن بالنظر إلى ضيق الحيز المتاح واتساع نطاق الموضوع، فإن مجموعة المبادئ الواردة أدناه هي بالضرورة غير حصرية. وعلاوةً على ذلك، في حين أن المبادئ وُزعت على ستة مجالات مواضيعية تيسيراً للرجوع إليها، فإن العديد منها يتصل بأكثر من مجال مواضيعي واحد. لذا، ينبغي اعتبار التقرير بالشكل الذي عُرض فيه دليلاً وليس تصنيفاً ذا حجية. وترد في مرفق بهذا التقرير قائمة غير حصرية بالممارسات الواعدة، وهي تتضمن أمثلة مستمدة من ممارسات وسياسات الدول والسلطات المحلية والمنظمات غير الحكومية والجهات المعنية الأخرى<sup>(٤)</sup>.

## ثانياً - معلومات أساسية

٤ - لجميع المهاجرين حق التمتع بجميع حقوق الإنسان. وفي إعلان نيويورك من أجل اللاجئين والمهاجرين، أكدت الدول الأعضاء مجدداً التزامها بشكل لا لبس فيه بحماية حقوق الإنسان لجميع المهاجرين حمايةً كاملة، بصرف النظر عن وضعهم، مع التأكيد مجدداً على أنهم جميعاً أصحاب حقوق (الفقرة ٥).

٥ - وكما تبين في أنحاء عديدة من العالم، يمكن أن تكون الهجرة تجربة إيجابية وتمكينية لكثير من المهاجرين ويمكن أن تحقق فوائد اقتصادية واجتماعية وثقافية للمهاجرين ولجتمعاتهم، وكذلك لبلدانهم الأصلية ولبلدان العبور والمقصد. ولكن من الواضح أيضاً أن المهاجرين قد يتعرضون على طول طرق الهجرة وفي بلدان العبور والمقصد لمواقف تفتقر فيها حقوقهم الإنسانية افتقاراً شديداً للحماية، لأسباب ليس أقلها عدم وجود نظم قائمة على حقوق الإنسان لإدارة الهجرة على الصعد المحلي والوطني والإقليمي والعالمي.

٦ - وتقع على عاتق الدول، بانضمامها إلى المعاهدات الدولية لحقوق الإنسان، التزامات بموجب القانون الدولي وهي تتعهد باتخاذ تدابير وتشريعات محلية تعكس تلك الالتزامات<sup>(٥)</sup>.

(٣) للتوجيهات المقدمة من هيئات المعاهدات والإجراءات الخاصة بحجية لأسباب عدة. فهي ملزمة قانوناً ما دامت تستند إلى أحكام ملزمة في القانون الدولي لحقوق الإنسان. وبالإضافة إلى ذلك، أنشئت هيئات المعاهدات وأسندت إليها ولاية رسمية بموجب أحكام المعاهدة التي ترصدها، في حين أن ولايات الإجراءات الخاصة تنشئها وتحددها الدول عن طريق مجلس حقوق الإنسان. وتستفيد أفرقة الخبراء في كلتا الحالتين من التعاون الوثيق مع الدول في المنظومة. وعلاوةً على ذلك، تكتسب توصيات هيئات المعاهدات والمكلفين بولايات في إطار الإجراءات الخاصة بحجيةً عندما تستند إليها مؤسسات قضائية دولية وإقليمية.

(٤) أبرزت مساهمات الأساتذة إلسبيث غيلد وكيس غرونديك وستيفاني غرانت في هذا التقرير أهمية ضمان أن تكون "الممارسات الجيدة" قائمة على أسس قانونية مستقرة متوافقة مع القانون الدولي لحقوق الإنسان، وأن تستوفي شرط تحقيق أو تجاوز الالتزامات الدولية القائمة للدول في مجال حقوق الإنسان.

(٥) تقع على عاتق الدول التزامات وواجبات بمقتضى القانون الدولي تتمثل في احترام حقوق الإنسان وحمايتها وإعمالها. ويعني الالتزام بالاحترام أن على الدول أن تمتنع عن التدخل في التمتع بحقوق الإنسان أو عن عرقلة هذا التمتع. ويقتضي الالتزام بالحماية من الدول أن تحمي الأفراد والجماعات من تجاوزات حقوق الإنسان التي ترتكبها أطراف ثالثة. ويعني واجب الأعمال أن على الدول أن تتخذ إجراءات إيجابية لتيسير التمتع بحقوق الإنسان.

وقد تترتب على ذلك أيضاً نتائج عملية فيما يخص السلطات البلدية والحكومات المحلية. والدول مسؤولة أيضاً عن النتائج الواقعة على حقوق الإنسان من جراء التصرفات الصادرة عن الجهات الخاصة، بما في ذلك الشركات وأعضاء المجتمع المدني والشركات الأمنية الخاصة، أو من جراء امتناعها عن التصرف. والإطار الدولي لحقوق الإنسان واضح في أن من واجب الجهات المسؤولة أن تنظر في الظروف الفريدة والفردية لكل شخص من أجل أعمال تلك الحقوق وتدعيم مبدأ أساسي هو مبدأ عدم التمييز<sup>(٦)</sup>.

٧- وتوفر صكوك حقوق الإنسان الدولية الأساسية التسعة المذكورة أدناه حماية قانونية لكل شخص، بمن في ذلك جميع المهاجرين، بغض النظر عن وضعهم. وبناءً على ذلك، تنطبق الصكوك الأساسية على جميع مجالات الهجرة وعلى جميع جوانب الهجرة الآمنة والمنظمة والنظامية.

(أ) الاتفاقية الدولية للقضاء على جميع أشكال التمييز العنصري (١٩٦٥)

(ب) العهد الدولي الخاص بالحقوق المدنية والسياسية (١٩٦٦)

(ج) العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية (١٩٦٦)

(د) اتفاقية القضاء على جميع أشكال التمييز ضد المرأة (١٩٧٩)

(هـ) اتفاقية مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو

اللاإنسانية أو المهينة (١٩٨٤)

(و) اتفاقية حقوق الطفل (١٩٨٩)

(ز) الاتفاقية الدولية لحماية حقوق جميع العمال المهاجرين وأفراد أسرهم (١٩٩٠)

(ح) الاتفاقية الدولية لحماية جميع الأشخاص من الاختفاء القسري (٢٠٠٦)

(ط) اتفاقية حقوق الأشخاص ذوي الإعاقة (٢٠٠٦).

## ألف - تعزيز وحماية حقوق الإنسان لجميع المهاجرين، والتصدي لجميع أشكال التمييز وضمان التماسك الاجتماعي

٨- يميل العديد من المهاجرين، وبخاصة من هم في وضع غير نظامي، إلى العيش والعمل في الخفاء، خائفين من الشكوى، ومحرومين من الحقوق والحريات التي يعدها معظم الناس من المسلمات، ومعرضين بشدة للتمييز والتهميش. ويعد القانون الدولي مسائل الدخول والإقامة غير النظاميين مسائل إدارية لا جرائم جنائية تنبغي المعاقبة عليها وفقاً لذلك؛ وهي في حد ذاتها ليست جرائم في حق أشخاص أو أملاك أو ضد الأمن القومي<sup>(٧)</sup>. ومن دون المساس بالحق

(٦) تنص المادة ٢ من العهد الدولي الخاص بالحقوق المدنية والسياسية نصاً واضحاً على أن الجهة المسؤولة، فيما يتعلق بجميع الحقوق المعترف بها في العهد، هي عادةً الدولة التي ينضوي الشخص تحت ولايتها. وهي تلزم الدول باحترام الحقوق المعترف بها في العهد، وبكفالة التمتع بها لجميع الأفراد الموجودين في إقليمها والداخلين في ولايتها، دون أي تمييز بسبب العرق أو اللون أو الجنس أو اللغة أو الدين أو الرأي، سياسياً أو غير سياسي، أو الأصل القومي أو الاجتماعي أو الثروة أو النسب أو غير ذلك من الأسباب.

(٧) انظر اللجنة المعنية بالعمال المهاجرين، التعليق العام رقم ٢ (٢٠١٣) بشأن حقوق العمال المهاجرين الذين هم في وضع غير نظامي وأفراد أسرهم، الفقرة ٢٤، و A/HRC/20/24، الفقرة ١٣.

السيادي الذي تملكه السلطات الوطنية في أن تأمر هؤلاء المهاجرين بمغادرة إقليمها، يفرض مجرد وجودهم تحت ولايتها التزامات معينة عليها، منها الالتزام الأساسي بالاعتراف بوجودهم وبحقوقهم في المطالبة بحقوقهم<sup>(٨)</sup>.

٩- وتعهدت الدول الأعضاء بأن تكافح بكل ما أوتيت من وسائل حالات إساءة المعاملة والاستغلال التي تعانيها أعداد لا حصر لها من المهاجرين الذين يعيشون في ظل أوضاع هشة (إعلان نيويورك من أجل اللاجئين والمهاجرين، الفقرة ١٠). ويمكن أن يُفهم من عبارة "مهاجر يعيش في وضع هش" أنها تعبر عن مجموعة عوامل غالباً ما تتقاطع ويمكن أن تكون متزامنة وأن يؤثر بعضها في بعض ويفاقم بعضها بعضاً. ويمكن أن تتغير الأوضاع الهشة بمرور الزمن مع تغير الظروف أو تطورها. وقد أعرب مجلس حقوق الإنسان عن بالغ قلقه إزاء الأوضاع الهشة والمخاطر الخاصة التي يواجهها المهاجرون، والتي يمكن أن تنشأ عن أسباب مغادرة البلد الأصلي، والظروف التي يواجهها المهاجرون في طريقهم وعند الحدود وفي بلد المقصد، أو عن جوانب محددة من هوية الشخص أو ظروفه أو بمزيج من هذه العوامل<sup>(٩)</sup>.

١٠- ولضمان استناد سياسات الهجرة إلى قواعد ومعايير حقوق الإنسان، ومن ثم توثيقها ضمان حماية جميع الأشخاص المتنقلين، لا بد أولاً من التصديق على جميع الصكوك الدولية والإقليمية لحقوق الإنسان والاتفاقيات المتصلة بها وتنفيذها تنفيذاً فعالاً، وإعادة التأكيد في السياسة والممارسة على الأهمية الأساسية لاحترام حقوق الإنسان لجميع المهاجرين وحمايتهم وإعمالها.

١١- ويتيح الإطار القانوني للقانون الدولي لحقوق الإنسان والمعايير ذات الصلة نقاطاً مرجعية لوضع التزامات مجدية وعملية لاتخاذ إجراءات. ويمثل القانون الدولي الأساس الذي ينبغي أن تُبنى عليه السياسات والممارسات المتعلقة بالهجرة والمهاجرين، من حيث إنه يوفر للدول إرشادات عملية، ويزودها هي وغيرها من الجهات المعنية، حسب الاقتضاء، بالأدوات اللازمة للتحكم في الهجرة على نحو يدعم حقوق جميع المعنيين.

١٢- وينص الإعلان العالمي لحقوق الإنسان (١٩٤٨) نصاً واضحاً على أن "جميع الناس يولدون أحراراً ومتساوين في الكرامة والحقوق" (المادة ١). ولا تميز الشريعة الدولية لحقوق الإنسان، التي تضم الإعلان العالمي لحقوق الإنسان والعهد الدولي الخاص بالحقوق المدنية والسياسية والعهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية، بين المواطنين وغير المواطنين إلا فيما يخص حقّين اثنين، وفي ظروف محدودة فقط<sup>(١٠)</sup>.

(٨) انظر E/C.12/2017/1، الفقرة ١١.

(٩) انظر قرار مجلس حقوق الإنسان ١٧/٣٥.

(١٠) تحصر المادة ٢٥ من العهد الدولي الخاص بالحقوق المدنية والسياسية في المواطنين الحق في التصويت والمشاركة في الشؤون العامة، وتمنح المادة ١٢ الأجانب الموجودين في البلد بصفة قانونية الحق في حرية التنقل داخل البلد. إلا أن اللجنة المعنية بحقوق الإنسان أشارت، في تعليقها العام رقم ١٥ (١٩٨٦) بشأن وضع الأجانب بموجب العهد، إلى أنه يجوز للأجنبي أن يتمتع بحماية المادة ١٢ من العهد، حتى فيما يتعلق بالدخول أو الإقامة، عندما تُطرح، مثلاً، اعتبارات عدم التمييز وحظر المعاملة اللاإنسانية واحترام الحياة الأسرية (الفقرة ٥).

مجموعة المبادئ<sup>(١١)</sup>

البروتوكول الاختياري الملحق بالعهد الدولي الخاص بالحقوق المدنية والسياسية (١٩٦٦) البروتوكول الاختياري الثاني للعهد الدولي الخاص بالحقوق المدنية والسياسية الهادف إلى إلغاء عقوبة الإعدام (١٩٨٩)

البروتوكول الاختياري لاتفاقية القضاء على جميع أشكال التمييز ضد المرأة (١٩٩٩) البروتوكول الاختياري لاتفاقية حقوق الطفل المتعلق باشتراك الأطفال في المنازعات المسلحة (٢٠٠٠) البروتوكول الاختياري لاتفاقية حقوق الطفل المتعلق ببيع الأطفال واستغلال الأطفال في البغاء وفي المواد الإباحية (٢٠٠٠)

البروتوكول الاختياري لاتفاقية مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة (٢٠٠٢)

البروتوكول الاختياري لاتفاقية حقوق الأشخاص ذوي الإعاقة (٢٠٠٦)

البروتوكول الاختياري للعهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية (٢٠٠٨)

البروتوكول الاختياري لاتفاقية حقوق الطفل المتعلق بإجراء تقديم البلاغات (٢٠١٤)

---

اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ١٥ (١٩٨٦) بشأن وضع الأجانب بموجب العهد

اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ١٨ (١٩٨٩) بشأن عدم التمييز

لجنة القضاء على التمييز العنصري، التوصية العامة رقم ٣٠ (٢٠٠٤) بشأن التمييز ضد غير المواطنين

لجنة القضاء على التمييز العنصري، التوصية العامة رقم ٣٢ (٢٠٠٩) بشأن معنى ونطاق التدابير الخاصة الواردة في الاتفاقية

لجنة القضاء على التمييز العنصري، التوصية العامة رقم ٣٥ (٢٠١٣) بشأن مكافحة خطاب الكراهية العنصرية

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٢٠ (٢٠٠٩) بشأن عدم التمييز في الحقوق الاقتصادية والاجتماعية والثقافية

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، بيان بشأن واجبات الدول تجاه اللاجئين والمهاجرين بموجب العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية (E/C.12/2017/1)

لجنة حقوق الطفل، تقرير عن يوم النقاش العام المعقود في عام ٢٠١٢ بشأن حقوق جميع الأطفال في سياق الهجرة الدولية (٢٠١٢)<sup>(١٢)</sup>

---

(١١) يجدر بالملاحظة، إضافةً إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.

(١٢) انظر [www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf](http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf)

- إعلان حقوق الإنسان للأفراد الذين ليسوا من مواطني البلد الذي يعيشون فيه (١٩٨٥)
- برنامج عمل المؤتمر الدولي للسكان والتنمية (١٩٩٤)
- منهاج العمل للمؤتمر العالمي الرابع المعني بالمرأة (١٩٩٥)
- إعلان وبرنامج عمل ديربان (٢٠٠١)
- الوثيقة الختامية لمؤتمر استعراض نتائج ديربان (٢٠٠٩)
- تحويل عالمنا: خطة التنمية المستدامة لعام ٢٠٣٠ (٢٠١٥)
- إعلان نيويورك من أجل اللاجئ والمهاجرين (٢٠١٦)
- المبادئ الأساسية والمبادئ التوجيهية بشأن الحق في الانتصاف والجرير لضحايا الانتهاكات الجسدية للقانون الدولي لحقوق الإنسان والانتهاكات الخطيرة للقانون الدولي الإنساني (٢٠٠٥)
- مفوضية الأمم المتحدة السامية لشؤون اللاجئين، مبادئ توجيهية بشأن تحديد مصالح الطفل الفضلى (٢٠٠٨)
- المجموعة العالمية المعنية بالهجرة، استغلال المهاجرين الدوليين، لا سيما من هم في وضع غير نظامي، والإساءة إليهم: نهج قائم على حقوق الإنسان (٢٠١٣)
- مفوضية الأمم المتحدة السامية لحقوق الإنسان، الحقوق الاقتصادية والاجتماعية والثقافية للمهاجرين الذين هم في وضع غير نظامي (٢٠١٤)
- تقرير الأمين العام: بأمان وكرامة: التعامل مع التحركات الكبيرة للاجئين والمهاجرين (A/70/59) (٢٠١٧)
- تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن وضع الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية (A/71/285) (٢٠١٦)
- تقرير مفوض الأمم المتحدة السامي لحقوق الإنسان بشأن تعزيز وحماية حقوق الإنسان للمهاجرين في سياق حركات النزوح الكبرى (A/HRC/33/67) (٢٠١٦)
- تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن خطة لتيسير التنقل البشري لعام ٢٠٣٥ (A/HRC/35/25) (٢٠١٧)
- تقرير الممثل الخاص للأمين العام المعني بالهجرة (A/71/728) (٢٠١٧)
- تقرير مفوض الأمم المتحدة السامي لحقوق الإنسان بشأن المبادئ والتوجيهات العملية المتعلقة بحماية حقوق الإنسان للمهاجرين الذين يعيشون في أوضاع هشّة (A/HRC/34/31) (٢٠١٧)
- هيئة الأمم المتحدة للمساواة بين الجنسين وتمكين المرأة (هيئة الأمم المتحدة للمرأة)، "توصيات لمعالجة حقوق الإنسان للمرأة في الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية" (٢٠١٧)

---

- قرار مجلس حقوق الإنسان ٥/٩ بشأن حقوق الإنسان للمهاجرين (٢٠٠٨)
- قرار مجلس حقوق الإنسان ١٦/١٥ بشأن حقوق الإنسان للمهاجرين (٢٠١٠)
- قرار مجلس حقوق الإنسان ٢١/١٨ بشأن حقوق الإنسان للمهاجرين (٢٠١١)
- قرار مجلس حقوق الإنسان ٣/٢٠ بشأن حقوق الإنسان للمهاجرين (٢٠١٢)
- قرار مجلس حقوق الإنسان ٢٠/٢٣ بشأن حقوق الإنسان للمهاجرين (٢٠١٣)
- قرار مجلس حقوق الإنسان ١٤/٣٢ بشأن حماية حقوق الإنسان للمهاجرين: تمثين إجراءات تعزيز وحماية حقوق الإنسان للمهاجرين، بمن فيهم المهاجرون في سياق تحركات كبيرة (٢٠١٦)

## باء- معالجة دوافع الهجرة

١٣- في الفقرة ١ من إعلان نيويورك من أجل اللاجئ والمهاجرين، سلمت الجمعية العامة بأن دوافع الهجرة المعاصرة متعددة وغالباً ما تكون متداخلة. وفي حين أن العديد من المهاجرين

ينتقلون طوعاً وبأمان بحثاً عن فرص أفضل ويستطيعون التنقل والعيش والعمل في أمان وكرامة، فإن كثيرين غيرهم يُجبرون على التنقل. وبالإضافة إلى الاضطهاد والنزاعات، تشمل الأسباب التي يمكن أن تضطر المهاجرين إلى مغادرة بلدانهم الأصليين الفقر وعدم التمتع بحقوق الإنسان الأساسية مثل التعليم والصحة والغذاء والماء والعمل اللائق والعنف وعدم المساواة بين الجنسين والانفصال عن الأسرة والعواقب الواسعة النطاق المترتبة على الكوارث الطبيعية وتغير المناخ والتدهور البيئي<sup>(١٣)</sup>.

١٤ - ومن المهم أن نتذكر أن الفقر ليس مجرد مسألة اقتصادية، بل ظاهرة متعددة الأبعاد تشمل الافتقار إلى مصدر للدخل وإلى المؤهلات الأساسية للعيش بكرامة ويكون هذا مقروناً بالاستبعاد الاجتماعي، الأمر الذي يقوض فرص ممارسة أو استعادة الحقوق في المستقبل المنظور<sup>(١٤)</sup>. وتؤدي أشكال التمييز والاستبعاد وعدم المساواة الكامنة وراء ذلك، بالإضافة إلى أمور مثل انتشار العنف في المجتمع، دوراً مهماً في دفع الناس إلى الهجرة، ولا سيما في ظروف غير آمنة ومحفوفة بالمخاطر.

١٥ - ويمكن أيضاً ربط الهجرة بالكوارث المفاجئة مثل الفيضانات والأعاصير وبالظواهر البطيئة الحدوث المتزايدة تدريجياً، مثل ارتفاع مستوى سطح البحر، وتدهور الأراضي والغابات، وفقدان التنوع البيولوجي، والتصحر<sup>(١٥)</sup>، وهي نفسها مرتبطة في كثير من الأحيان بالفقر والتمييز وسوء الإدارة. ويجب إيلاء دوافع الهجرة اهتماماً خاصاً في سياق الأفراد والجماعات الذين يتعرضون لأنماط من التمييز متقاطعة وثابتة.

١٦ - وفي الفقرة ٤٣ من إعلان نيويورك من أجل اللاجئين والمهاجرين، أكدت الدول الأعضاء أن الهجرة ينبغي أن تكون خياراً لا ضرورة. والمهاجرون الذين ينتقلون بحكم الضرورة لا يباردتهم الحرة أكثر عرضة لانتهاكات إضافية لحقوق الإنسان طوال رحلتهم وفي بلدان المقصد. وتقل أمامهم فرصة الاستفادة من خيارات بديلة عندما لا تجري هجرتهم وفق ما خططوا له، ومن ثم تزيد احتمالات تنقلهم في ظروف لا تحترم كرامة الإنسان.

مجموعة المبادئ<sup>(١٦)</sup>

اتفاقية الأمم المتحدة الإطارية بشأن تغير المناخ (١٩٩٢)

---

(١٣) في القرار ١٧/٣٥، وضع مجلس حقوق الإنسان في الاعتبار أن السياسات والمبادرات المتعلقة بمسألة الهجرة ينبغي أن تشجع النهج الكلية التي تأخذ في الحسبان أسباب هذه الظاهرة ونتائجها، واعترف بأن دوافع الهجرة تشمل الفقر والتخلف وانعدام الفرص وسوء الحوكمة والعوامل البيئية وانتهاكات وتجاوزات حقوق الإنسان، فضلاً عن النزاعات المسلحة والإرهاب وانعدام السلام والأمن ومنع نشوب النزاعات وتسويتها.

(١٤) انظر الوثيقة A/HRC/5/3، الفقرة ٦. وقد عرفت اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية الفقر بأنه "وضع إنساني قوامه الحرمان المستمر أو المزمّن من الموارد والإمكانيات والخيارات والأمن والقدرة الضرورية للتمتع بمستوى معيشي لائق وبالحقوق المدنية والثقافية والاقتصادية والسياسية والاجتماعية الأخرى" (انظر E/C.12/2001/10، الفقرة ٨). انظر أيضاً المبادئ التوجيهية بشأن الفقر المدقع وحقوق الإنسان.

(١٥) للاطلاع على تعريف "الظواهر البطيئة الحدوث"، انظر FCCC/TP/2012/7.

(١٦) يجدر بالملاحظة، إضافة إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.



اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، بيان بشأن القضايا الموضوعية الناشئة عن تنفيذ العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية: الفقر والعهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية (E/C.12/2001/10)

اللجنة المعنية بالقضاء على التمييز ضد المرأة، التوصية العامة رقم ٣٢ (٢٠١٤) بشأن الأبعاد الجنسانية المرتبطة بالمرأة فيما يتعلق بمركز اللاجئ واللجوء والجنسية وانعدام الجنسية  
اللجنة المعنية بحقوق الأشخاص ذوي الإعاقة، التعليق العام رقم ٣ (٢٠١٦) بشأن النساء والفتيات ذوات الإعاقة

---

الإعلان العالمي الخاص باستئصال الجوع وسوء التغذية (١٩٧٤)  
إعلان كوبنهاغن بشأن التنمية الاجتماعية وبرنامج عمل مؤتمر القمة العالمي للتنمية الاجتماعية (١٩٩٥)

إعلان روما بشأن الأمن الغذائي العالمي (١٩٩٦)  
إعلان الأمم المتحدة بشأن حقوق الشعوب الأصلية (٢٠٠٧)  
إطار سينداي للحد من مخاطر الكوارث للفترة ٢٠١٥-٢٠٣٠ (٢٠١٥)

---

مبادرة "المهاجرون في البلدان التي تمر بأزمات"، مبادئ توجيهية لحماية المهاجرين في البلدان التي تعاني من النزاعات أو الكوارث الطبيعية (٢٠١٦)

مبادرة نانسن، خطة حماية المشردين عبر الحدود في سياق الكوارث وتغير المناخ (٢٠١٥)  
مفوضية الأمم المتحدة السامية لحقوق الإنسان، المبادئ التوجيهية بشأن الفقر المدقع وحقوق الإنسان (٢٠١٢)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن آثار تغير المناخ على الهجرة (A/67/299) (٢٠١٢)

---

قرار مجلس حقوق الإنسان ٢٠/٣٥ بشأن حقوق الإنسان وتغير المناخ (٢٠١٧)

## جيم - تعزيز التعاون الدولي وإدارة الهجرة على الحدود، وأثناء المرور العابر، وعند الدخول، وفيما يتعلق بالعودة

١٧ - تنقل الناس عبر الحدود جزء طبيعي من التجربة البشرية وتسبق إنشاء الحدود الدولية نفسها<sup>(١٧)</sup>. وتيسير ذلك التنقل وتنظيمه وإدارته ينطوي على عملية معقدة من التعاون بين البلدان على الصعيدين الثنائي والمتعدد الأطراف، وداخل الحكومات وداخل المجتمعات<sup>(١٨)</sup>. وتسهم قوانين ومعايير الإطار الدولي لحقوق الإنسان في تنظيم وتوجيه الإجراءات التي تتخذها الدول بشأن الهجرة، وهي تشكل جزءاً لا يتجزأ من إدارة الهجرة. وهي تحدد البارامترات والنقاط المرجعية لجميع تدابير إدارة الهجرة.

(١٧) يؤكد إعلان نيويورك من أجل اللاجئين والمهاجرين أن الجنس البشري، منذ أقدم العصور، في حالة تنقل دائمة (الفقرة ١).

(١٨) انظر مفوضية الأمم المتحدة السامية لحقوق الإنسان: تحسين الإدارة القائمة على حقوق الإنسان للهجرة الدولية (٢٠١٣).

١٨ - وقد يواجه المهاجرون، عندما يحاولون عبور الحدود الدولية أو الدخول إلى بلد من البلدان، مجموعة من العقبات التي تحول بينهم وبين التمتع بما لهم من حقوق الإنسان. والقانون الدولي يذكر بوضوح أن الحدود ليست مناطق استبعاد أو إعفاء من الالتزامات في مجال حقوق الإنسان. بل على العكس من ذلك، يقع على عاتق الدول واجب أكبر بتوفير الرعاية للمهاجرين الذين يعيشون في أوضاع هشة على حدودها والذين سيحتاجون إلى تدابير حماية محددة. ومع ذلك، قلما يُجرى تقييم وإحالة مناسبان للأفراد على الحدود الدولية للتعرف على حالات الهشاشة والاحتياجات المتعلقة بحماية حقوق الإنسان.

١٩ - أما المهاجرون العابرون فهم عرضة لطائفة من انتهاكات حقوق الإنسان وإساءة المعاملة، من الإبعاد والاحتجاز التعسفي عند الحدود إلى العنف على يد المتجرين وحرس الحدود والحرمان من الخدمات الأساسية - بل المنقذة للحياة. وبتزايد احتجاز المهاجرين غير النظاميين في جميع أنحاء العالم. والاحتجاز الإداري، بدلاً من أن يكون حلاً أخيراً - كما يُفترض أن يكون تدبير بهذا التأثير الحاسم في من يُفرض عليه - هو إجراء عادي في أحيان كثيرة، وإلزامي في بعض الحالات، حتى مع الأطفال.

٢٠ - ويجب أن تكون جميع حالات الإعادة قانونية. والدول ملزمة بأن تكفل عدم إعادة شخص إلى مكان قد يتعرض فيه لخطر التعذيب أو غيره من الانتهاكات الجسيمة لحقوق الإنسان، بما في ذلك الاختفاء القسري، والأشكال الخطيرة من التمييز والتدخل التعسفي في الحق في الحياة الأسرية والحياة الخاصة. ومبدأ عدم الإعادة القسرية وحظر الطرد التعسفي أو الجماعي هما من أركان القانون الدولي لحقوق الإنسان وينطبقان على جميع المهاجرين، أينما كانوا وبصرف النظر عن وضعهم كمهاجرين. ومن المهم في هذا الصدد ضمان أن تكون اتفاقات إعادة القبول قائمة على مبادئ حقوق الإنسان وأن تبرم وتنقذ بطريقة شفافة وخاضعة للمساءلة.

٢١ - والإعادة ينبغي أيضاً أن تكون مستدامة. فعندما يعاد المهاجرون إلى بلدان يواجهون فيها نفس الظروف التي اضطرتهم إلى الرحيل عنها، فلن يكون هناك ما يغريهم بالعودة إليها ولا ما يدعوهم للبقاء فيها. وبدلاً من ذلك، من المحتمل جداً أن يعمد هؤلاء إلى تكرار الهجرة عبر طرق أخطر وفي ظروف أخطر، في سعيهم إلى إعمال حقوقهم الإنسانية والعيش حياة كريمة.

#### مجموعة المبادئ<sup>(١٩)</sup>

اتفاقية فيينا للعلاقات القنصلية (١٩٦٣)

اتفاقية تسهيل حركة الملاحة البحرية الدولية (١٩٦٥)

الاتفاقية الدولية لسلامة الأرواح في البحار، ١٩٧٤، بصيغتها المعدلة

الاتفاقية الدولية للبحث والإنقاذ في البحار، ١٩٧٩، بصيغتها المعدلة

(١٩) يجدر بالملاحظة، إضافة إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.

اتفاقية الأمم المتحدة لقانون البحار (١٩٨٢)  
اتفاقية منظمة الأمم المتحدة للتربية والعلم والثقافة (اليونسكو) بشأن حماية وتعزيز تنوع أشكال التعبير  
الثقافي (٢٠٠٥)

---

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٧ (١٩٩٧) بشأن الإخلاء  
القسري

اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ٢٧ (١٩٩٩) بشأن حرية التنقل  
اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ٣١ (٢٠٠٤) بشأن طبيعة الالتزام القانوني العام المفروض  
على الدول الأطراف في العهد

اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ٣٥ (٢٠١٤) بشأن حق الفرد في الحرية وفي الأمان على  
شخصه

الفريق العامل المعني بالاحتجاز التعسفي، المداولة رقم ٥ بشأن حالة المهاجرين الوافدين وملتمسي  
اللجوء (١٩٩٩)

الفريق العامل المعني بالاحتجاز التعسفي، المداولة رقم ٩ بشأن تعريف ونطاق الحرمان التعسفي من  
الحرية في القانون الدولي العربي (٢٠١٢)

لجنة حقوق الطفل، التعليق العام رقم ٦ (٢٠٠٥) بشأن معاملة الأطفال غير المصحوبين والمنفصلين عن  
ذويهم خارج بلدتهم الأصلي

لجنة حقوق الطفل، التعليق العام رقم ١٠ (٢٠٠٧) بشأن حقوق الطفل في قضاء الأحداث

---

قواعد الأمم المتحدة النموذجية الدنيا لمعاملة السجناء (قواعد نيلسون مانديلا) (٢٠١٥)

قواعد الأمم المتحدة النموذجية الدنيا لإدارة شؤون قضاء الأحداث (قواعد بكين) (١٩٨٥)

مجموعة المبادئ المتعلقة بحماية جميع الأشخاص الذين يتعرضون لأي شكل من أشكال الاحتجاز أو  
السجن (١٩٨٨)

قواعد الأمم المتحدة بشأن حماية الأحداث المجردين من حريتهم (١٩٩٠)

قواعد الأمم المتحدة لمعاملة السجناء والتدابير غير الاحتجازية للمجرمين (قواعد بانكوك) (٢٠١٠)

---

المنظمة البحرية الدولية، الخطوط التوجيهية المتعلقة بمعاملة الأشخاص الذين يتم إنقاذهم في البحر  
(٢٠٠٤)

منظمة الصحة العالمية، اللوائح الصحية الدولية (٢٠٠٥)

المبادئ الأساسية والخطوط التوجيهية المتعلقة بعمليات الإخلاء والترحيل بدافع التنمية (٢٠٠٧)  
اللجنة الدائمة المشتركة بين الوكالات، الضوابط الإرشادية للصحة العقلية والدعم النفسي - الاجتماعي  
في حالات الطوارئ (٢٠٠٧)

مجموعة المبادئ<sup>(١٩)</sup>

المنظمة البحرية الدولية، المبادئ المتعلقة بالإجراءات الإدارية لإنزال الأشخاص الذين يتم إنقاذهم في البحر (٢٠٠٩)

مفوضية الأمم المتحدة السامية لشؤون اللاجئين، المبادئ التوجيهية ذات الصلة بالمعايير والقواعد المنطبقة فيما يتعلق باحتجاز ملتمسي اللجوء وبدائل الاحتجاز (٢٠١٢)

المنظمة الدولية للهجرة، الإطار التشغيلي لأزمات الهجرة (٢٠١٢)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن الإدارة العالمية للهجرة (A/68/283) (٢٠١٣)

مفوضية الأمم المتحدة السامية لحقوق الإنسان، الهجرة وحقوق الإنسان: تحسين الإدارة القائمة على حقوق الإنسان للهجرة الدولية (٢٠١٣)

لجنة القانون الدولي، مشاريع المواد المتعلقة بطرد الأجانب (٢٠١٤)

مفوضية الأمم المتحدة السامية لحقوق الإنسان، المبادئ والخطوط التوجيهية الموصى بها فيما يتعلق بحقوق الإنسان على الحدود الدولية (٢٠١٤)

مبادئ الأمم المتحدة الأساسية ومبادئها التوجيهية بشأن سبل الانتصاف والإجراءات المتعلقة بحق كل شخص يُسلب حريته في إقامة دعوى أمام محكمة (٢٠١٥)

تقرير مفوضية الأمم المتحدة السامية لحقوق الإنسان بشأن وضع المهاجرين العابرين (A/HRC/31/35) (٢٠١٦)

المنظمة الدولية للهجرة، إطار حوكمة الهجرة (٢٠١٥)

---

قرار مجلس حقوق الإنسان ٩/١١ بشأن حقوق الإنسان للمهاجرين المودعين مراكز الاحتجاز (٢٠٠٩)

قرار مجلس حقوق الإنسان ٢/٢٩ بشأن حماية حقوق الإنسان للمهاجرين: المهاجرون العابرون (٢٠١٥)

قرار مجلس حقوق الإنسان ١٧/٣٥ بشأن حماية حقوق الإنسان للمهاجرين: الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية (٢٠١٧)

## دال - تعزيز الصلة بين التنمية المستدامة والهجرة بالاستناد إلى حقوق الإنسان

٢٢- تركز خطة التنمية المستدامة لعام ٢٠٣٠ بشكل لا لبس فيه على حقوق الإنسان، وهي تنص صراحةً على أن أساسها الراسخ هو ميثاق الأمم المتحدة والإعلان العالمي لحقوق الإنسان والمعاهدات الدولية لحقوق الإنسان وغيرها من الصكوك، وتشترط أن يجري تنفيذها على نحو يتفق مع التزامات الدول بموجب القانون الدولي، بما في ذلك التزاماتها في مجال حقوق الإنسان. وتعهدت خطة عام ٢٠٣٠ بألا يخلف الركب عنه أحداً وألزمت الدول بالوصول أولاً إلى من هم أشد تخلفاً عن الركب. وعلى هذا الأساس، إذا ما أريد إطلاق الإمكانيات الإنمائية للهجرة بفعالية فلا بد من أن يقترن ذلك بتعزيز حقوق الإنسان لجميع المهاجرين وحمايتهم وإعمالها، بصرف النظر عن وضعهم. وغني عن البيان أنه لا يمكن لأي مجتمع أن يرقى إلى إمكانيات التنمية الفعلية إذا وُجدت عوائق قانونية أو اجتماعية أو سياسية تمنع قطاعات كاملة من ذلك المجتمع، مثل المهاجرين، من المساهمة في التنمية.

٢٣- ورغم الاعتراف المتزايد والمرحب به بالإسهامات الأساسية التي يقدمها المهاجرون للمجتمعات والاقتصادات في بلدانهم الأصلية وبلدان العبور والمقصد، من المهم تسليط الضوء على الظروف الخطرة التي يعمل فيها العديد من المهاجرين لكسب المال الذي يقدر على تحويله إلى بلدانهم ومن المهم التأكيد على أن المهاجرين لا يمكن اعتبارهم مجرد سلع أو أدوات تخدم التنمية الاقتصادية للغير. وينبغي للاستراتيجيات الإنمائية أن تكفل عدم تعرض المهاجرين لمزيد من التهميش أو الإضعاف أو الاستبعاد أو الإهمال. وفي هذا السياق، من المهم التأكيد من أن المهاجرين، بمن فيهم أولئك الذين هم في وضع غير نظامي، مشمولون في الاستراتيجيات وخطط العمل الوطنية المتعلقة بالصحة والتعليم والإسكان والعمالة وعدم التمييز. ويلزم إيجاد مصادر جديدة لجمع البيانات المفصلة من أجل قياس ورصد التقدم المحرز في مجال التنمية لجميع المهاجرين.

مجموعة المبادئ<sup>(٢٠)</sup>

اتفاقية اليونسكو لمكافحة التمييز في مجال التعليم (١٩٦٠)

---

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٤ (١٩٩١) بشأن الحق في السكن اللائق

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٣ (١٩٩٩) بشأن الحق في التعليم

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٢ (١٩٩٩) بشأن الحق في الغذاء الكافي

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٤ (٢٠٠٠) بشأن الحق في التمتع بأعلى مستوى من الصحة يمكن بلوغه

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٥ (٢٠٠٢) بشأن الحق في الماء

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٩ (٢٠٠٧) بشأن الحق في الضمان الاجتماعي

لجنة حقوق الطفل، التعليق العام رقم ٧ (٢٠٠٥) بشأن إعمال حقوق الطفل في مرحلة الطفولة المبكرة  
لجنة حقوق الطفل، التعليق العام رقم ١٥ (٢٠١٣) بشأن حق الطفل في التمتع بأعلى مستوى من الصحة يمكن بلوغه

---

إعلان الحق في التنمية (١٩٨٦)

الوثيقة الختامية لمؤتمر الأمم المتحدة للتنمية المستدامة المعنونة "المستقبل الذي نصبو إليه" (٢٠١٢)

خطة عمل أديس أبابا الصادرة عن المؤتمر الدولي الثالث لتمويل التنمية (٢٠١٥)

إعلان كيتو بشأن المدن والمستوطنات البشرية المستدامة للجميع (٢٠١٦)

(٢٠) يجدر بالملاحظة، إضافةً إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.

مجموعة المبادئ<sup>(٢٠)</sup>

منظمة العمل الدولية، توصية بشأن الحفاظ على الحقوق في مجال الضمان الاجتماعي، ١٩٨٣ (رقم ١٦٧)

توصيات بشأن إحصاءات الهجرة الدولية، التنقيح ١ (١٩٩٨)

المبادئ المتعلقة برد المساكن والممتلكات إلى اللاجئين والمشردين (٢٠٠٥)

المبادئ والتوصيات المتعلقة بتعدادات السكان والمساكن (٢٠٠٨)

منظمة الصحة العالمية، المدونة العالمية لممارسات التوظيف الدولي للعاملين الصحيين (٢٠١٠)

مبادئ توجيهية بشأن الأعمال التجارية وحقوق الإنسان: تنفيذ إطار الأمم المتحدة المعنون "الحماية والاحترام والانتصاف" (٢٠١١)

مفوضية الأمم المتحدة السامية لحقوق الإنسان، مؤشرات حقوق الإنسان: دليل للقياس والتنفيذ (٢٠١٢)

تقرير الأمين العام عن تعزيز حقوق الإنسان وحمايتها، بما في ذلك سبل ووسائل تعزيز حقوق الإنسان للمهاجرين (A/68/292) (٢٠١٣)

---

قرار مجلس حقوق الإنسان ٢٦/٢١ بشأن تعزيز حقوق الإنسان للمهاجرين في التمتع بأعلى مستوى ممكن من الصحة البدنية والعقلية (٢٠١٤)

## هاء - التصدي وتهريب المهاجرين والاتجار بالأشخاص وأشكال الرق المعاصرة

٢٤- يمكن أن تؤدي التدابير المتزايدة التقييد في مجال الهجرة وإدارة الحدود، مقترنةً بعدم وجود قنوات للهجرة الآمنة والنظامية، إلى تهيئة شروط وحوافز تحمل المهاجرين على التحول إلى طرق أخطر والاستعانة بخدمات المهريين في السفر والسكن والعمالة وأمور أخرى.

٢٥- وتهريب المهاجرين، إذا نُظر إليه من منظور حقوق الإنسان، لا يشكل في حد ذاته انتهاكاً لحقوق الإنسان ويمكن في بعض الظروف أن يكون بمثابة تقديم خدمة محايدة نسبياً. وبعض أشكال التهريب يمكن أن توفر للمهاجرين الوسائل اللازمة لتمكينهم من الانتقال من نقطة إلى أخرى، هرباً في كثير من الأحيان من انتهاكات حقوق الإنسان، والتهريب ضارب بجذوره أحياناً في الاقتصادات المحلية واستراتيجيات كسب الرزق. وفي حالات أخرى، يتورط المهربون بشدة في أعمال الابتزاز والعنف وإساءة المعاملة والسرقة بحق المهاجرين، وبعضهم ينتمي إلى هياكل إجرامية منظمة. والمهاجرون الذين يستعينون بمهريين قلما يتاح لهم أن يختاروا طريقة تنقلهم، ولا سيما إذا كانوا فقراء ومهمشين، وهم أكثر عرضة لسوء المعاملة والاستغلال من المهريين، وكذلك من السلطات الحدودية ومن جهات أخرى.

٢٦- وتشمل تدابير التصدي الفعالة والقائمة على حقوق الإنسان للاتجار بالمهاجرين وتهريبهم إنشاء آليات إحالة وطنية لتحديد هوية الضحايا وتوفير خدمات المساعدة والحماية لهم، بما في ذلك التدابير المراعية للطفل ولنوع الجنس، من أجل الكشف عن حالات الاتجار بالأشخاص والمهاجرين الذين يعيشون في أوضاع هشّة وتقديم مؤشرات على خطر الاتجار وانتهاكات حقوق الإنسان الأخرى في جميع المواقع التي يوجد فيها مهاجرون، بما في ذلك مراكز الاستقبال والاحتجاز الإداري، وغيرها من المستوطنات الرسمية وغير الرسمية.

٢٧- وينبغي الاهتمام بما لتدابير مكافحة التهريب وكذلك أنشطة مكافحة الاتجار من تأثير في حقوق الإنسان، للتأكد من أنها لا تزيد من هشاشة وضع المهاجرين. وتشمل التدابير المثيرة للقلق اعتراض المهاجرين بطريقة خطيرة، وتشديد الوجود العسكري على الحدود، والمراقبة التدخلية، وأساليب جمع المعلومات الاستخباراتية، فضلاً عن توقيع عقوبات غير متناسبة على المهربين أو تجريم الأشخاص الذين يساعدون المهاجرين لأسباب إنسانية.

مجموعة المبادئ<sup>(٢١)</sup>

اتفاقية منظمة العمل الدولية بشأن العمل الجبري، ١٩٣٠ (رقم ٢٩)  
 اتفاقية منظمة العمل الدولية بشأن إلغاء العمل الجبري، ١٩٥٧ (رقم ١٠٥)  
 اتفاقية منظمة العمل الدولية بشأن حظر أسوأ أشكال عمل الأطفال، ١٩٩٩ (رقم ١٨٢)  
 اتفاقية الأمم المتحدة لمكافحة الجريمة المنظمة عبر الوطنية (٢٠٠٠)  
 بروتوكول منع وقمع ومعاقبة الاتجار بالأشخاص، وبخاصة النساء والأطفال، المكمل لاتفاقية الأمم المتحدة لمكافحة الجريمة المنظمة عبر الوطنية (٢٠٠٠)  
 بروتوكول مكافحة تهريب المهاجرين عن طريق البر والبحر والجو، المكمل لاتفاقية الأمم المتحدة لمكافحة الجريمة المنظمة عبر الوطنية (٢٠٠٠)  
 بروتوكول منظمة العمل الدولية لعام ٢٠١٤ الملحق باتفاقية العمل الجبري، ١٩٣٠

---

اللجنة المعنية بالقضاء على التمييز ضد المرأة، التوصية العامة رقم ١٩ (١٩٩٢) بشأن العنف ضد المرأة  
 اللجنة المعنية بالقضاء على التمييز ضد المرأة، التوصية العامة رقم ٣٣ (٢٠١٥) بشأن لجوء المرأة إلى القضاء  
 لجنة حقوق الطفل، التعليق العام رقم ٢٠ (٢٠١٦) بشأن أعمال حقوق الطفل أثناء المراهقة  
 اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٢٢ (٢٠١٦) بشأن الحق في الصحة الجنسية والإنجابية

---

إعلان مبادئ العدل الأساسية المتعلقة بضحايا الإجمام والتعسف في استعمال السلطة (١٩٨٥)  
 إعلان سلفادور بشأن الاستراتيجيات الشاملة لمواجهة التحديات العالمية: نظم منع الجريمة والعدالة الجنائية وتطورها في عالم متغير (٢٠١٠)  
 خطة الأمم المتحدة العالمية لمكافحة الاتجار بالأشخاص (٢٠١٠)  
 الإعلان السياسي المتعلق بتنفيذ خطة عمل الأمم المتحدة العالمية لمكافحة الاتجار بالأشخاص (٢٠١٧)

---

مفوضية الأمم المتحدة السامية لحقوق الإنسان، المبادئ والمبادئ التوجيهية الموصى بها فيما يتعلق بحقوق الإنسان والاتجار بالأشخاص (٢٠٠٢)  
 دليل التقصي والتوثيق الفعالين للتعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة (بروتوكول اسطنبول) (٢٠٠٤)  
 منظمة الأمم المتحدة للطفولة (اليونيسيف)، المبادئ التوجيهية المتعلقة بحماية الأطفال ضحايا الاتجار (٢٠٠٦)

(٢١) يجدر بالملاحظة، إضافةً إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.

مجموعة المبادئ<sup>(٢١)</sup>

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، إطار العمل الدولي من أجل تنفيذ بروتوكول الاتجار بالأشخاص (٢٠٠٩)

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، القانون النموذجي لمكافحة الاتجار بالأشخاص (٢٠٠٩)

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، القانون النموذجي لمكافحة تهريب المهاجرين (٢٠١٠)

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، إطار العمل الدولي لتنفيذ بروتوكول مكافحة تهريب المهاجرين (٢٠١١)

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، ورقة مناقشة: الفساد وتهريب المهاجرين (٢٠١٣)

مفوضية الأمم المتحدة السامية لشؤون اللاجئين، المبادئ التوجيهية المتعلقة بالحماية المؤقتة أو ترتيبات الإقامة (٢٠١٤)

تقرير المقررة الخاصة المعنية بالاتجار بالأشخاص، وبخاصة النساء والأطفال (A/HRC/29/38) (٢٠١٥)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين (A/HRC/29/36) (٢٠١٥)

تقرير المقررة الخاصة المعنية بالاتجار بالأشخاص، وبخاصة النساء والأطفال (A/HRC/32/41 و Corr.1) (٢٠١٦)

فريق التنسيق المشترك بين الوكالات لمكافحة الاتجار بالأشخاص، مجموعة أدوات للإرشاد في تصميم وتقييم برامج مكافحة الاتجار بالبشر (٢٠١٦)

فريق التنسيق المشترك بين الوكالات لمكافحة الاتجار بالأشخاص، ورقة مناقشة: توفير سبل انتصاف فعالة لضحايا الاتجار بالأشخاص (٢٠١٦)

مكتب الأمم المتحدة المعني بالمخدرات والجريمة، ورقة مناقشة: مفهوم "المنفعة المالية أو المنفعة المادية الأخرى" في بروتوكول مكافحة تهريب المهاجرين (٢٠١٧)

---

قرار مجلس حقوق الإنسان بشأن حقوق الإنسان للمهاجرين: الهجرة وحقوق الإنسان للطفل (٢٠٠٩)

قرار مجلس حقوق الإنسان بشأن الأطفال والمراهقين المهاجرين غير المصحوبين وحقوق الإنسان (٢٠١٥)

قرار مجلس حقوق الإنسان بشأن الأطفال والمراهقين المهاجرين غير المصحوبين وحقوق الإنسان (٢٠١٦)

## واو- تعزيز العمل اللائق وتنقل اليد العاملة

٢٨- من المعروف أن أغلبية كبيرة من المهاجرين منخراطون في عالم العمل، سواء تنقلوا أساساً للبحث عن عمل لائق أو لأسباب أخرى. وتشير التقديرات إلى أن أكثر من ٧٠ في المائة من جميع المهاجرين الدوليين هم من العمال المهاجرين.

٢٩- ويواجه العمال المهاجرون في جميع أنحاء العالم، لا سيما من هم في وضع غير نظامي، مختلف أشكال الإساءة والاستغلال. والقطاعات التي يعمل فيها الكثير من المهاجرين، مثل البناء والزراعة وتجهيز الأغذية ومصائد الأسماك والأعمال المنزلية وأعمال الرعاية، قد تفتقر إلى التنظيم والحماية. وحماية جميع العمال من الاستغلال والإساءة مكوّن أساسي من مكونات



حقوق الإنسان المتعلقة بالعمل، ولا سيما في أوضاع الهشاشة والاختلال الكبير في موازين القوة بين العمال وأصحاب العمل. ويتلاقى في هذا الشأن القانون الدولي لحقوق الإنسان وقانون العمل الدولي<sup>(٢٢)</sup>.

٣٠- وكثيراً ما يواجه المهاجرون مجموعة من العقبات التي تعترض إمكانية لجوئهم إلى العدالة، بما في ذلك في المحاكم والهيئات القضائية الوطنية، وكذلك إلى آليات الرصد والتظلم. وقد تشمل هذه العقبات الافتقار إلى مهارات اللغة المحلية، والمعلومات المحدودة عن حقوقهم وسبل الانتصاف، والتهديد والتخويف من أصحاب العمل، وتقسيم الحقوق المختلفة على آليات قضائية وغير قضائية شتى، وعدم إمكانية الاستعانة بمحام مختص أو بمتجرب شفوي مؤهل، وعدم إتاحة المساعدة القانونية.

#### مجموعة المبادئ<sup>(٢٣)</sup>

- اتفاقية منظمة العمل الدولية بشأن المساواة في المعاملة (التعويض عن حوادث العمل)، ١٩٢٥ (رقم ١٩)
- اتفاقية منظمة العمل الدولية بشأن تفتيش العمل، ١٩٤٧ (رقم ٨١)
- اتفاقية منظمة العمل الدولية بشأن الحرية النقابية وحماية حق التنظيم، ١٩٤٨ (رقم ٨٧)
- اتفاقية منظمة العمل الدولية بشأن حق التنظيم والمفاوضة الجماعية، ١٩٤٩ (رقم ٩٨)
- اتفاقية منظمة العمل الدولية بشأن العمال المهاجرين (مراجعة)، ١٩٤٩ (رقم ٩٧)
- اتفاقية منظمة العمل الدولية بشأن المساواة في الأجر، ١٩٥١ (رقم ١٠٠)
- اتفاقية منظمة العمل الدولية بشأن التمييز (في الاستخدام والمهنة)، ١٩٥٨ (رقم ١١١)
- اتفاقية منظمة العمل الدولية بشأن العمال المهاجرين (أحكام تكميلية)، ١٩٧٥ (رقم ١٤٣)
- اتفاقية منظمة العمل الدولية بشأن الحد الأدنى لسن الاستخدام، ١٩٧٣ (رقم ١٣٨)
- اتفاقية منظمة العمل الدولية بشأن وكالات الاستخدام الخاصة، ١٩٩٧ (رقم ١٨١)
- اتفاقية منظمة العمل الدولية بشأن العمال المنزليين، ٢٠١١ (رقم ١٨٩)

---

- توصية منظمة العمل الدولية بشأن العمال المهاجرين (مراجعة)، ١٩٤٩ (رقم ٨٦)
- اللجنة المعنية بالقضاء على التمييز ضد المرأة، التعليق العام رقم ٢٦ (٢٠٠٨) بشأن العاملات المهاجرات
- اللجنة المعنية بحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، التعليق العام رقم ١ (٢٠١١) بشأن العمال المنزليين المهاجرين
- اللجنة المعنية بحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، التعليق العام رقم ٢ (٢٠١٣) بشأن حقوق العمال المهاجرين الذين هم في وضع غير نظامي وأفراد أسرهم

(٢٢) انظر E/2010/89، الفقرة ٥١.

(٢٣) يجدر بالملاحظة، إضافةً إلى ذلك، أن جميع الصكوك الدولية الأساسية التسعة لحقوق الإنسان منطبقة هي أيضاً.

مجموعة المبادئ<sup>(٢٣)</sup>

اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٢٣ (٢٠١٦) بشأن الحق في التمتع بشروط عمل عادلة ومرضية

---

إعلان منظمة العمل الدولية بشأن المبادئ والحقوق الأساسية في العمل (١٩٩٨)

منظمة العمل الدولية، الإطار متعدد الأطراف بشأن هجرة الأيدي العاملة: مبادئ وإرشادات غير ملزمة من أجل نهج قائم على الحقوق إزاء هجرة الأيدي العاملة (٢٠٠٦)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن استغلال عمل المهاجرين (A/HRC/26/35) (٢٠١٤)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن تأثير ممارسات استقدام العمالة المهاجرة في حقوق الإنسان للمهاجرين (A/70/310) (٢٠١٥)

تقرير الأمين العام بشأن تعزيز حقوق الإنسان وحمايتها، بما في ذلك سبل ووسائل تعزيز حقوق الإنسان للمهاجرين (A/70/259) (٢٠١٥)

تقرير مفوض الأمم المتحدة السامي لحقوق الإنسان بشأن أعمال الحق في العمل (A/HRC/31/32) (٢٠١٥)

مفوضية الأمم المتحدة السامية لحقوق الإنسان، خلف الأبواب المغلقة: حماية وتعزيز حقوق الإنسان للعمال المنزليين المهاجرين الذين هم في وضع غير نظامي (٢٠١٥)

منظمة العمل الدولية، المبادئ العامة والمبادئ التوجيهية التنفيذية للتوظيف المنصف (٢٠١٦)

تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين بشأن تأثير الاتفاقات التجارية الثنائية والمتعددة الأطراف على حقوق الإنسان للمهاجرين (A/HRC/32/40) (٢٠١٦)

المنظمة الدولية للهجرة، النظام الدولي لنزاهة التوظيف: معيار النظام الدولي لنزاهة التوظيف (٢٠١٧)

## ثالثاً - الاستنتاجات والتوصيات

## ألف - الاستنتاجات

٣١- في الإعلان المنبثق عن الحوار الرفيع المستوى بشأن الهجرة الدولية والتنمية (٢٠١٣)، قررت الجمعية العامة العمل على وضع خطة فعالة شاملة بشأن الهجرة الدولية وضمان هجرة آمنة ومنظمة ونظامية، في ظل الاحترام التام لحقوق الإنسان (الفقرتان ٣ و ٥). وفي إعلان نيويورك من أجل اللاجئين والمهاجرين وخطة التنمية المستدامة لعام ٢٠٣٠، أعربت الدول الأعضاء بالمثل عن نيتها تيسير الهجرة الآمنة والنظامية والمنظمة و"المسؤولة".

٣٢- ومن المهم من منظور حقوق الإنسان ضمان أن تكون حقوق الإنسان - المهاجر - وظروفه محورياً لمحاولات تعريف ما يشكل هجرة "آمنة ونظامية ومنظمة". فإدارة الهجرة "المنظمة"، مثلاً، ينبغي أن تحيل في الوضع المثالي إلى تدابير الهجرة، بما فيها التدابير المتعلقة بالدخول والخروج والعودة، وهي تدابير غير تمييزية من حيث الغرض والأثر، وتوفر

للمهاجرين والدول إمكانية التنبؤ وذلك تجنباً لاتخاذ تدابير تعسفية أو غير قانونية في سياسات الهجرة. وصفة "منظمة" لا ينبغي أن يقتصر استعمالها مرادفاً لضبط تنقل الناس ومنعه، من دون تحليل كلي لمسارات الهجرة وسياقاتها والظروف الفردية واحتياجات الأشخاص المتقنين إلى الحماية. ومن المرجح أن تساهم الهجرة التي تتم عبر القنوات المأذون بها للهجرة "النظامية" وفي ظل الاحترام الكامل لسيادة القانون في تعزيز حقوق الإنسان للمهاجرين وحمايتهم، وفي هذا الصدد، تشجّع الدول على التعاون لإقامة قنوات للهجرة ميسرة ونظامية تلبى احتياجات الاقتصادات والمجتمعات<sup>(٢٤)</sup>. وفي التحليل النهائي، ينبغي أن يهدف الاتفاق العالمي في المقام الأول إلى كفالة هجرة "آمنة" للمهاجرين، بغض النظر عن وضعهم، وللمجتمعات التي يرحلون عنها والمجتمعات التي يصلون إليها، فضلاً عن المجتمعات التي يعبرونها. ويجيل الأمان في هذا السياق لا إلى الأمن المادي، وإنما بوجه أعم إلى نشر بيئة تحظى فيها كرامة الإنسان وحقوقه بالاحترام والحماية والإعمال.

٣٣- ومن شأن الاتفاق العالمي الذي يتمحور في المقام الأول حول المهاجرين ويقوم على حقوق الإنسان ويراعي الاعتبارات الجنسانية أن يكفل الإدماج الاجتماعي ويضمن التوافق مع الهدف الشامل لخطة التنمية المستدامة لعام ٢٠٣٠ بألا يخلف الركب أحداً وراءه وبالوصول أولاً إلى من هم أشد تخلفاً عن الركب (الفقرة ٤)، ومع الهدف المتمثل في الحد من أوجه عدم المساواة المتأصل في الغاية ١٠-٧ من أهداف التنمية المستدامة. وبناءً على ذلك، يمثل الإطار القانوني الدولي الأساس المعياري الذي ينبغي أن يشاد عليه الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية. ويجاول هذا التقرير تحدي المفهوم القائل بأن لا وجود لإطار شامل لحماية المهاجرين، عن طريق العرض المفصل للمجموعة الواسعة من أحكام القانون الدولي والمعايير ذات الصلة التي توفر حماية قانونية لحقوق الإنسان لجميع المهاجرين، بصرف النظر عن وضعهم.

٣٤- وعلاوةً على ذلك، ووفاءً بما يعد به إعلان نيويورك من أجل اللاجئين والمهاجرين، ينبغي أن يسعى الاتفاق العالمي، في المقام الأول، إلى التشجيع على اتباع نهج قائم على حقوق الإنسان إزاء الهجرة. ويُفترض في هذا النهج أن يستند إلى المبادئ التالية<sup>(٢٥)</sup>:

(أ) العالمية وعدم القابلية للتصرف. جميع الناس، بمن فيهم المهاجرون، يتمتعون بحقوق الإنسان العالمية غير القابلة للتصرف؛

(ب) عدم التجزؤ والتعاضد والترابط. جميع حقوق الإنسان، مدنية أو ثقافية أو اقتصادية أو سياسية أو اجتماعية، غير قابلة للتجزؤ، وإعمال أحد الحقوق يعتمد في الغالب، كلياً أو جزئياً، على إعمال حقوق أخرى؛

(٢٤) في الاتفاقية الدولية لحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، تضع الدول الأطراف في اعتبارها أن المشاكل الإنسانية التي تنطوي عليها الهجرة تكون أجسام في حالة الهجرة غير النظامية، وهي مقتنعة لذلك بضرورة تشجيع الإجراءات الملائمة بغية منع التنقلات السرية والاتجار بالعمال المهاجرين والقضاء عليها، وفي الوقت نفسه تأمين حماية ما لهم من حقوق الإنسان الأساسية (الديباجة). انظر أيضاً اللجنة المعنية بحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، التعليق العام رقم ٢، الفقرة ١٧.

(٢٥) انظر أيضاً A/68/292، الفقرة ١٢.

(ج) المشاركة والإدماج. من حق المهاجرين المشاركة في اتخاذ القرارات التي تؤثر فيهم مباشرة مشاركة فعالة وحررة ومجدية؛

(د) المساواة وعدم التمييز. ينبغي التصدي للتمييز المباشر وغير المباشر ضد المهاجرين في القوانين والسياسات والممارسات؛

(هـ) الرصد والمساءلة. ينبغي أن يكون وضع وتنفيذ سياسات الهجرة شفافاً وينبغي أن يكفل وصول المهاجرين إلى آليات الجبر والانتصاف<sup>(٢٦)</sup>.

٣٥- وستتوقف حماية المهاجرين وإدماجهم بفعالية على توظيف جهود المجتمعات ككل في نجاح هذا المسعى. ولذلك، يجب أن تشمل السياسات المتصلة بالهجرة مشاركة جميع الجهات التي لها مصلحة في ما يتحقق من نتائج، بما في ذلك البرلمانات والحكومات المحلية ونقابات العمال وهيئات الوطنية لحقوق الإنسان والمنظمات غير الحكومية والمهاجرون أنفسهم.

٣٦- وحماية الحق في المعلومات عنصر رئيس من عناصر تمكين المهاجرين؛ وتزويدهم بالمعلومات والدعم المناسبين يمكن أن يعزز قدرتهم على اتخاذ قرارات مدروسة والدفاع عن حقوقهم من خلال الوصول الفعال إلى العدالة<sup>(٢٧)</sup>. وعلى الدول، لضمان ألا تنشأ عن سياساتها المتعلقة بالهجرة أوجه عدم مساواة أو عرقلة للتمتع بحقوق الإنسان، أن ترصد الآثار المترتبة على سياساتها وإجراءاتها، بسبل منها جمع بيانات مصنفة على الأقل بحسب السن والجنس ووضع المهاجر<sup>(٢٨)</sup>. وقد التزمت الدول في إعلان نيويورك من أجل اللاجئين والمهاجرين بالنظر في استعراض سياساتها المتعلقة بالهجرة بهدف دراسة العواقب السلبية غير المقصودة التي قد تترتب عليها (الفقرة ٤٥).

## باء- التوصيات

٣٧- يوصي المفوض السامي بأن يُلزم الاتفاق العالمي من أجل الهجرة الآمنة والمنظمة والنظامية الدول بجملة أمور منها ما يلي:

(أ) استعراض السياسات التي تجرم الهجرة، والنص في القانون على قرينة ضد الاحتجاز، بسبل منها توخي بدائل للاحتجاز مجتمعية ومراعية لحقوق الإنسان وغير سالبة للحرية. وينبغي للدول أن تضع، على سبيل الأولوية، خطط عمل وطنية للقضاء على

(٢٦) توجد سبل كثيرة لمعالجة مسألة الرصد والمساءلة في مجال الهجرة، منها ما يلي:

١' التصديق على المعاهدات الدولية لحقوق الإنسان وتنفيذها؛ ٢' الآليات القضائية وشبه القضائية، مثل المحاكم الوطنية والمراجعات الدستورية والإدارية واللجان الوطنية لحقوق الإنسان وأمناء المظالم؛ ٣' الآليات الإدارية والمعنية بالسياسات، مثل استعراض تأثير سياسات الهجرة في حقوق الإنسان؛ ٤' الآليات السياسية، مثل العمليات البرلمانية وأنشطة الرصد والدعوة التي تقوم بها المنظمات غير الحكومية؛ ٥' تقديم التقارير إلى آليات الإشراف الدولية على حقوق الإنسان.

(٢٧) انظر المجموعة العالمية المعنية بالهجرة، مشروع مبادئ عامة ومبادئ توجيهية، مدعومة بإرشادات عملية، بشأن حماية حقوق الإنسان للمهاجرين الذين يعيشون أوضاعاً هشّة، المبدأ ١٦-٢.

(٢٨) انظر اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٤.

احتجاز الأطفال المهاجرين بإشراك السلطات الحكومية والمجتمع المدني وسائر الجهات الفاعلة المعنية، بمن في ذلك الأطفال أنفسهم<sup>(٢٩)</sup>؛

(ب) وضع وتنفيذ إجراءات ومعايير واضحة وملزمة بشأن إنشاء "حواجز واقية" بين دوائر الهجرة ودوائر الخدمات العامة على جميع المستويات، بما في ذلك في مجالات الوصول إلى العدالة والشرطة والسكن والرعاية الصحية والتعليم والخدمات الاجتماعية وخدمات العمل للمهاجرين<sup>(٣٠)</sup>؛

(ج) وضع آليات عملية وفعالة لتقييم الحالة الفردية لجميع المهاجرين على الحدود، وفقاً ل ضمانات الإجراءات القانونية الواجبة، وفي أقرب وقت ممكن بعد وصول المهاجرين. وينبغي للدول أن تضع مبادئ توجيهية وتنفيذ الاتفاقات مع الهيئات الوطنية لحماية حقوق الإنسان ومقدمي خدمات المساعدة القانونية والجهات الأخرى ذات الصلة بما يكفل فرز وإحالة المهاجرين الذين يعيشون في أوضاع هشة بفعالية ودون إبطاء. وينبغي اتخاذ هذه الإجراءات، حسب الاقتضاء، قبل تقييم طلبات اللجوء أو بمعزل عن هذا التقييم أو بالتزامن معه. وينبغي للدول أن توفر إرشادات بشأن التطبيق العملي لمبدأ مصالح الطفل الفضلى لجميع الأطفال المهاجرين، بمن فيهم الأطفال الذين قد لا يقدمون طلب لجوء<sup>(٣١)</sup>؛

(د) إصدار تشريعات متينة لمكافحة التمييز تحمي المهاجرين من جميع أشكال التمييز، بما في ذلك التمييز على أساس الجنسية أو وضع المهاجر، وإنشاء هيئات وطنية متخصصة في هذا المجال، ووضع معايير للقضاء على كراهية المهاجرين بوصفهم أجنب<sup>(٣٢)</sup>؛

(هـ) ضمان حماية حقوق الإنسان لجميع المهاجرين الذين يعيشون في أوضاع هشة، والالتزام في هذا الصدد بتنفيذ التوجيهات الشاملة الواردة في مشروع المبادئ العامة والمبادئ التوجيهية، المدعومة بإرشادات عملية، بشأن حماية حقوق الإنسان للمهاجرين الذين يعيشون أوضاعاً هشة الذي وضعته المجموعة العالمية المعنية بالهجرة؛

(و) كفالة إخضاع السياسات الوطنية والإقليمية والدولية المتعلقة بالهجرة للرصد والمراقبة، بما في ذلك التدقيق البرلماني، ونشر جميع الاتفاقات الثنائية واتفاقات إعادة القبول ومذكرات التفاهم ذات الصلة بالهجرة. وينبغي أن يسعى الاتفاق العالمي إلى كفالة أن يكون التعاون الدولي متوافقاً دائماً مع الالتزام باحترام حقوق الإنسان وحمايتها وإعمالها، وألا يكون هذا التعاون البتة مشروطاً بتدابير تقييد الهجرة أو تعاقب المهاجرين بشكل غير قانوني أو بشكل غير متناسب<sup>(٣٣)</sup>؛

(٢٩) انظر المجموعة العالمية المعنية بالهجرة، مشروع مبادئ عامة ومبادئ توجيهية، مدعومة بإرشادات عملية، بشأن حماية حقوق الإنسان للمهاجرين الذين يعيشون أوضاعاً هشة، المبدأ ١-٣ و ٨.

(٣٠) المرجع نفسه، المبادئ ٢-٥ و ٧-٥ و ١٢-٨ و ١٧-٣.

(٣١) المرجع نفسه، المبدأ ٥-٥ و ٥-٦.

(٣٢) المرجع نفسه، المبدأ ٢.

(٣٣) المرجع نفسه، المبدأ ١-٤ و ٢٠-٨.

(ز) الاستعراض المنتظم للتقدم المحرز في تنفيذ الالتزامات المقطوعة بموجب الاتفاق العالمي، بسبل منها إنشاء آليات داخلية وخارجية مستقلة أو تعزيز ما هو قائم منها لرصد تأثير القوانين والسياسات والممارسات ذات الصلة بالمهاجرين في حقوق الإنسان. وينبغي إشراك جميع المعنيين، بمن فيهم المهاجرون أنفسهم، في آليات التنفيذ والمساءلة.

## **Annex**

### **Examples of practice**

The content of this annex on good and promising practice is extracted from the inventory of 'practical guidance' contained within the Global Migration Group 'Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations' (draft). The latter document is regularly updated with examples of good and promising practice on the human rights protection of migrants in vulnerable situations. It should be noted that OHCHR has not independently verified the information contained in this annex. The following examples of good and promising practice are presented without claiming to be complete or geographically representative.

*Principle 1: Human Rights**Ensure that human rights are at the centre of addressing migration, including responses to large movements of migrants*

States of the Ibero-American Community have undertaken “[t]o promote the strengthening of human rights as a key component of the immigration policies and practices of the countries of origin, transit, and destination, ensuring the protection of the human rights of migrants within the framework of the laws of each State, regardless of their immigration status, nationality, ethnic origin, gender, or age.”<sup>1</sup>

The Netherlands Institute for Human Rights published *The Human Rights Yardstick* for assessing migration agreements between the European Union and third countries. The yardstick summarizes and lists the international human rights obligations that States are bound by when negotiating migration agreements with other countries.<sup>2</sup>

Article 40 of the Ecuador Constitution states that no person shall be identified nor considered as “illegal” due to his/her migration status.<sup>3</sup>

Article 2 of the Mexican Migration Law establishes that irregular migration status does not in itself constitute a criminal offence.<sup>4</sup>

The new Migration Law of Brazil adopted on 24 May 2017 provides that the Brazilian migratory policy is to be governed by the principle of non-criminalization of migration (Art. 3(III)). This new legislation aims to guarantee rights, foster inclusion and ensure that the fundamental respect for the dignity of all migrants lies at the centre of national policies. It will also provide for humanitarian visas.<sup>5</sup>

The Santa Cruz Declaration (2006) sets out practical steps that National Human Rights Institutions (NHRIs) can undertake to promote and protect the rights of migrants to uphold migrants’ rights.<sup>6</sup>

UNHCR is running the Campaign to End Statelessness in 10 years: #IBELONG to a world where everyone has the right to a nationality.<sup>7</sup>

The European Network on Statelessness (ENS) document that 21 European States have national laws that fully comply with international and regional law on statelessness and the right to a nationality: Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Finland, France, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Moldova, Montenegro, Portugal, Serbia, Slovakia, Spain, Turkey, Ukraine, United Kingdom.<sup>8</sup> The ENS is running a campaign, *No Child Should Be Stateless*, to prevent children from growing up without a nationality.<sup>9</sup>

<sup>1</sup> Montevideo Commitment on Migration and Development of the Heads of State and Government of the Ibero-American Community, adopted during the XVI Ibero-American Summit held in Montevideo, Uruguay, on 4 and 5 November 2006, para. 25 (g), <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4604.pdf?view=1>.

<sup>2</sup> The Yardstick is available at <https://www.mensenrechten.nl/publicaties/detail/37661>. See also: The Netherlands Institute for Human Rights, *Human Act or Devil’s Pact? Human rights aspects of migration agreements between EU and third countries*, May 2017.

<sup>3</sup> Constitution of Ecuador, Article 40, available at: [http://www.asambleanacional.gov.ec/documentos/constitucion\\_de\\_bolsillo.pdf](http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf).

<sup>4</sup> Mexico’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>5</sup> Law 13.445/2017, 05/24/2017, article 3, available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2017/lei/L13445.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/lei/L13445.htm).

<sup>6</sup> Santa Cruz Declaration, adopted at the Eighth International Conference for National Human Rights Institutions, Santa Cruz, Bolivia, 23-27 October 2006, <http://nhri.ohchr.org/EN/ICC/InternationalConference/PreviousConf/Pages/Eight-International-Conference.aspx>.

<sup>7</sup> Information at <http://www.unhcr.org/ibelong/>. See also, *Agenda For Humanity: Annex to the Report of the Secretary-General for the World Humanitarian Summit*, Core responsibility 3.C: End statelessness in the next decade.

<sup>8</sup> Specifically, Article 1 of the 1961 Convention on the Reduction of Statelessness, and Article 6(2) of the 1997 European Convention on Nationality. See European Network on Statelessness, *No Child Should Be Stateless*, ENS 2015, Annex 2, available at [http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS\\_NoChildStateless\\_final.pdf](http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_NoChildStateless_final.pdf).

<sup>9</sup> Campaign infographic at <http://statelesskids.eu/post/152893090770/children-get-their-nationality-through-different>.



*Principle 1: Human Rights**Ensure that human rights are at the centre of addressing migration, including responses to large movements of migrants*

Chapter six of the Brazil Plan of Action adopted by the governments of Latin America and the Caribbean in December 2014 addresses statelessness, including a call to “adopt legal protection frameworks that guarantee the rights of stateless persons, in order to regulate issues such as their migratory status, identity and travel documents and, more generally, ensure full enjoyment of the rights”.<sup>10</sup>

The 2004 Argentinian National Migration Law contains standards to ensure respect for human rights of migrants and their families, while establishing mechanisms for easy access to migratory regularization. The provisions include respect for human rights and international commitments (article 3), the right to migrate, based on based on the principles of equality and universality (article 4) and the principle of equal treatment (article 5). Migration status does not preclude migrants’ equal access to the right to health, social assistance and education.<sup>11</sup>

In Guatemala, OHCHR continued to provide technical assistance and advice to various commissions in the Congress of Guatemala on reform of the law on migration. The views expressed by the Office, and the recommendations made by the Special Rapporteur on the human rights of migrants and the Committee on the on the Protection of the Rights of All Migrant Workers and Members of Their Families were incorporated into the draft.<sup>12</sup>

In Timor-Leste, OHCHR provided assistance in preparing the first State party report under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Between March and October 2015, three training sessions on the Convention, the reporting process and its outcome were conducted and OHCHR co-facilitated with the Government two consultations that gathered input for the report from State officials, civil society entities, the private sector and embassies.<sup>13</sup>

<sup>10</sup> Brazil Plan of Action: A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity, Chapter 6, including para. (e), available at: <http://www.acnur.org/cartagena30/en/brazil-declaration-and-plan-of-action/>. See also: Brazil Declaration: A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean.

<sup>11</sup> Argentina’s submission to OHCHR, according to General Assembly Resolution A/RES/67/172 on the Protection of migrants; General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 41.

<sup>12</sup> Human Rights Council, Technical cooperation and capacity-building to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities: Report of the High Commissioner for Human Rights, A/HRC/31/80, 25 January 2016, para. 36.

<sup>13</sup> Human Rights Council, Technical cooperation and capacity-building to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities: Report of the High Commissioner for Human Rights, A/HRC/31/80, 25 January 2016, para. 63.

---

*Principle 2: Non-discrimination*  
*Counter discrimination against migrants in all its forms*

---

Argentina, Brazil, Costa Rica and Venezuela strongly espouse the principle of non-discrimination and do not distinguish between nationals and non-nationals for the purposes of access to and enjoyment of fundamental rights.<sup>14</sup>

The Charter on Inclusion of Persons with Disabilities in Humanitarian Action recognizes the multiple and intersecting forms of discrimination that exacerbate the exclusion of migrants with disabilities in situations of risk and the further impairment that may result from that intersection. The Charter was developed in a consultative process with over 70 stakeholders and is endorsed by over 100 states, civil society organizations and UN agencies.<sup>15</sup>

In order to prevent discriminatory conduct by police officers, Switzerland undertakes the following measures: 1) Capacity building: modules on human rights and racial discrimination are included in the basic professional training for police officers; 2) Monitoring: as part of the fight against racial profiling, inspections and arrests are regularly supervised; 3) Complaint: mechanisms are in place to file a complaint in case of racist conduct of a member of the police force.<sup>16</sup>

In New Zealand, there are various legal and complaint mechanisms available to people who believe they have been discriminated against or who have been subjected to hate speech. Depending on the nature of the concerns individuals are able to complain to the law enforcements agencies or to organizations such as the Human Rights Commission.<sup>17</sup>

The European Union High Level Group on combating racism, xenophobia and other forms of intolerance, which was set up to foster peer learning and exchange of best practices between Member States, civil society and international partners, developed a hate crime training guide for law enforcement and criminal justice authorities.<sup>18</sup>

The Polish-based Fundacja Rozwoju “Oprócz Granic” (Foundation for Development “Beyond Borders”, FROG) has worked to develop documented and undocumented women’s engagement with media. They are involved in “Broadcasts radjowe”, a bi-weekly radio initiative that informs listeners about migration issues such as the role of undocumented domestic and care workers as Polish women migrate west.<sup>19</sup>

---

<sup>14</sup> International Detention Coalition, *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised Edition)* Melbourne: IDC, 2015, p. 28, available at: <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

<sup>15</sup> The Charter is available at <http://humanitariandisabilitycharter.org>. On the intersection between disability and migrant and other statuses, see para. 1.8.

<sup>16</sup> Switzerland’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>17</sup> New Zealand’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>18</sup> European Union’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>19</sup> PICUM, *Strategies to End Double Violence Against Undocumented Women — Protecting Rights and Ensuring Justice*, 2012, p. 46.

Resources: There are several resources providing guidance on rights-based language on migration, including: a) the Media-Friendly Glossary on Migration (August 2014); b) Human Rights Watch, *Guidelines for Describing Migrants*, 24 June 2014; c) PICUM, *Why ‘Undocumented’ or ‘Irregular’ — Terminology ‘Words Matter’ Campaign*, June 2014; d) Define American, *#WordsMatter factsheet and media/journalist pledge campaign*.<sup>20</sup>

In Romania, community information campaigns have raised awareness of the issues faced by asylum seekers and migrants and have played an important role in fighting xenophobia and ensuring a better understanding of their situation.<sup>21</sup>

In 2016 the New Zealand Human Rights Commission launched the “#ThatsUs”<sup>22</sup> campaign, an initiative in support of the New Zealand Migrant Settlement and Integration Strategy. That’s Us is New Zealand’s first anti-racism campaign that asks New Zealanders to start sharing personal stories about racism, intolerance and hatred as well as their hopes for the future. It is based on the belief that talking about the impact of casual racism will deter xenophobia.<sup>23</sup>

The Austrian Redcross has developed the “Stammtisch APP” to counter misinformation leading to racism and to promote discussion and integration of migrants in Austria.<sup>24</sup>

ProjektXchange is a programme of the Austrian Red Cross created in response to increasing negative public attitudes to migration. Approximately 300 volunteers with a migratory background were invited to act as ‘ambassadors of integration’. These migrant ambassadors visited schools and met with youth groups to share their experiences, including why they came to Austria, what they do, their experiences of discrimination and xenophobia, and their hopes for the future.<sup>25</sup>

The African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in Johannesburg and the technology website iAfrikan have launched a crowdsourcing platform called Xenowatch to address the lack of information on violence against migrants and refugees, which is not officially monitored and documented. People can report xenophobic threats or violence to Xenowatch online, by SMS or email. Reports are verified, anonymized and documented on a map using the Ushahidi platform, as well as shared with the police and the United Nations High Commission for

<sup>20</sup> United Nations Alliance of Civilizations (UNAOC) and Panos Europe Institute (IPE), *Media-Friendly Glossary on Migration*, with contributions from PICUM, IDMC, IFRC, ILO, IOM, OHCHR, TdH and UNHCR, August 2014, available at <http://www.panoseurope.org/publications/media-friendly-glossary-migration>; Human Rights Watch, *Guidelines for Describing Migrants*, 24 June 2014, available at <https://www.hrw.org/news/2014/06/24/human-rights-watch-guidelines-describing-migrants>; PICUM, *Why ‘Undocumented’ or ‘Irregular’ — Terminology ‘Words Matter’ Campaign*, June 2014, available at [http://picum.org/picum.org/uploads/file\\_/TerminologyLeaflet\\_reprint\\_FINAL.pdf](http://picum.org/picum.org/uploads/file_/TerminologyLeaflet_reprint_FINAL.pdf); Define American, *#WordsMatter factsheet and media/journalist pledge campaign*, available at <https://defineamerican.com/campaigns/wordsmatter/>.

<sup>21</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 38.

<sup>22</sup> <http://www.thatsus.co.nz/>.

<sup>23</sup> New Zealand’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>24</sup> UNODC, *Combating violence against migrants: Criminal justice measures to prevent, investigate, prosecute and punish violence against migrants, migrant workers and their families and to protect victims*, 2015, pp. 32-33, referencing <http://www.racismnoway.com.au>.

<sup>25</sup> IFRC, *Smart practices that enhance the resilience of migrants*. available at: <http://media.ifrc.org/global-review-on-migration/smart-practice/projektxchange-austria/>

---

*Principle 2: Non-discrimination*  
*Counter discrimination against migrants in all its forms*

---

Refugees. The ACMS and iAfrikan are working with the South African Local Government Association to have data from Xenowatch included in the scorecards they use for evaluating local political performance. The data can also be used by NGOs to advocate for accountability.<sup>26</sup>

The Youth Department of the Council of Europe coordinates Hate Speech Watch, a user-generated repository to trace, share and discuss online hate speech content, including that targeted towards migrants and refugees.<sup>27</sup>

In collaboration with the UNHCR and with the participation of more than 35 NGOs and other bodies, the Greek National Commission on Human Rights (GNCHR) established the Racist Violence Recording Network, which primarily focuses on monitoring and recording of racist attacks against migrants in Greece. Quantitative and qualitative analysis of the network's data is used to alert authorities on new trends or escalations in hate crime. The network also raises awareness of hate crime and methods for combatting it; supports victims to report incidents and obtain legal aid; and organises training programmes for civil society and institutional bodies on how to identify, record and combat hate crime.<sup>28</sup>

---



---

*Principle 3: Access to justice for migrants*  
*Ensure access to justice for migrants*

---

Several measures have been adopted in Mexico to guarantee access to justice for irregular migrants, such as the creation of the public prosecution service for migrants in the state of Chiapas, as well as the protocols adopted by the National Institute of Migration in 2010 for the identification and assistance of migrants who are victims of crime.<sup>29</sup>

Article 1.1 of European Union Directive 2012/29/EU requires States to ensure access to justice, information, support and protection to all victims of crime, irrespective of their residence status.<sup>30</sup>

Article 59 of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence introduces the possibility of granting migrant women, who are victims of domestic violence and whose residence status depends on that of their spouse or partner, with their own residence permit when the relationship ends. This allows a victim of domestic violence to leave the relationship and seek protection without losing her residence status.<sup>31</sup>

---

<sup>26</sup> C. Alfred, South African Website to Crowdsource Reports of Xenophobic Violence, News Deeply: Refugees Deeply, 29 August 2016, <https://www.newsdeeply.com/refugees/articles/2016/08/29/south-african-website-to-crowdsource-reports-of-xenophobic-violence>.

<sup>27</sup> <http://www.nohatespeechmovement.org/hate-speech-watch>.

<sup>28</sup> Written Information submitted by the Greek National Commission for Human Rights in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination in Greece, July 2016, p. 53. Available from [http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GRC/INT\\_CERD\\_IFN\\_GRC\\_24494\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GRC/INT_CERD_IFN_GRC_24494_E.pdf).

<sup>29</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 88.

<sup>30</sup> Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA concerning the right to understand and be understood, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>.

<sup>31</sup> Council of Europe's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

The European Union Directive on the right of access to a lawyer in criminal proceedings (2013/48/EU) is a regional standard that provides for minimum rules on the right of access to a lawyer from first stage of police questioning throughout criminal proceedings, the rights to legal advice in country where the arrest is carried out and where it is issued (dual legal representation), and the right to have a third party informed upon deprivation of liberty as well as to communicate with consular authorities.<sup>32</sup>

Article 52.V of Mexico's Immigration Law provides for a right to remain on humanitarian grounds for persons who are victims, witnesses of or affected by a crime in Mexico. They will be allowed to remain in the country until the end of the criminal process, after which they must leave or apply for a new immigration status. Humanitarian status allows multiple entries into Mexico and work permit.<sup>33</sup>

Brazil, Poland and Singapore reported specific provisions to enhance access to justice for survivors of trafficking, including treatment of a trafficked person as a victim and survivor of abuse and not as an offender; investigations to identify and prosecute traffickers; and engagement with foreign embassies and non-governmental organizations to encourage trafficked victims to come forward without risk of prosecution.<sup>34</sup>

In the United States, legislation provides temporary migration status to migrants who are victims of certain crimes, including human trafficking.<sup>35</sup>

Numerous jurisdictions in the United States have firewalls in place between the criminal justice system and immigration enforcement. The Los Angeles Police Department in the State of California prohibits officers from initiating contact with someone solely to determine whether they are in a regular situation, a practice mandated by a special order signed in 1979. The police department has stopped turning over people arrested for low-level crimes to federal agents for deportation and moved away from honouring federal requests to detain inmates who might be deportable past their jail terms.<sup>36</sup> Sanctuary cities in the USA are those that have adopted a policy of protecting the rights of migrants in an irregular situation by not prosecuting them solely for violating federal immigration laws. These jurisdictions commit to limiting how local law enforcement and federal government agencies interact on matters of immigration enforcement. The first declared sanctuary city was San Francisco in 1989; the country now has more than 300 sanctuary jurisdictions.<sup>37</sup>

In the USA, California state officials are proposing to further restrict the ability of federal authorities to detain and deport the approximately 2.3 million undocumented immigrants living in the state. Senate Bill 54 would prohibit state and local law enforcement, including school police and security departments, from using their resources for immigration enforcement. The Bill would also create "safe zones" at public schools, hospitals and courthouses where immigrant enforcement would be banned, and require state agencies to update their confidentiality policies so that information on

<sup>32</sup> Directive 2013/48/EU of the European Parliament and of the Council on the right of access to a lawyer, adopted 6 November 2013. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013L0048>.

<sup>33</sup> Mexico's Immigration Law, Article 52.V (DOF 21-04-2016). Available at [http://www.google.ch/url?url=http://sre.gob.mx/component/phocadownload/category/2-marco-normativo%3Fdownload%3D294:ley-de-migracion-dof-25-05-11&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwic\\_MyUh6bSAhUCVhoKHVIKA\\_ToQFggUMAA&sig2=rmh8TJ4R25ro3du1L3HPzQ&usc=AFQjCNHVkiTLG6kwWoqujvyXMzYArPzlvG](http://www.google.ch/url?url=http://sre.gob.mx/component/phocadownload/category/2-marco-normativo%3Fdownload%3D294:ley-de-migracion-dof-25-05-11&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwic_MyUh6bSAhUCVhoKHVIKA_ToQFggUMAA&sig2=rmh8TJ4R25ro3du1L3HPzQ&usc=AFQjCNHVkiTLG6kwWoqujvyXMzYArPzlvG).

<sup>34</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/68/178, 23 July 2013, para. 41.

<sup>35</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 86.

<sup>36</sup> Kate Mather and Cindy Chang, LAPD will not help deport immigrants under Trump, chief says, *Los Angeles Times*, 14 November 2016, <http://www.latimes.com/local/lanow/la-me-ln-los-angeles-police-immigration-20161114-story.html>.

<sup>37</sup> <https://cliniclegal.org/sites/default/files/clinic-sanctuary-cities-toolkit-final.pdf>.

---

*Principle 3: Access to justice for migrants**Ensure access to justice for migrants*

---

individuals' immigration status is not shared for enforcement purposes.<sup>38</sup>

The US the Justice Department is trying to minimize the role of bias in law enforcement and the courts. More than 250 federal immigration judges attended a mandatory anti-bias training session in August 2016, and the Justice Department announced that 28,000 more employees would go through a similar exercise.<sup>39</sup>

Bosnia and Herzegovina, Jamaica and the United Arab Emirates have reported undertaking capacity-development of government officials and service providers to improve service delivery to women migrants. Such initiatives focused on the provision of training related to gender-based violence for the judiciary, prosecutors and service providers.<sup>40</sup>

Resource: The International Commission of Jurists (ICJ) has published a set of Principles on the Role of Judges and Lawyers in relation to Refugees and Migrants. The Principles seek to help judges and lawyers, as well as legislators and other government officials, better secure human rights and the rule of law in the context of large movements of refugees and migrants.<sup>41</sup>

---

---

*Principle 4: Rescue and assistance**Protect the lives and safety of migrants and ensure rescue and immediate assistance to all migrants facing risks to life or safety*

---

Migrant Offshore Aid Station (MOAS) is a foundation working to saving lives at sea by providing professional search and rescue services for people in distress on the open sea in search for safe shores. MOAS actively search for vessels in distress, and immediately inform the official coast guards and/or Rescue Coordination Centres and then assists as directed or as required by the situation.<sup>42</sup>

Front-line officers from the Tucson sector of the US Border Patrol pooled resources to purchase and established rescue beacons at several points in the desert, from where migrants can call the Border Patrol directly when in distress, providing locations of these beacons via their own GPS units.<sup>43</sup>

---

<sup>38</sup> Alexei Koseff, California bill creates deportation 'safe zones' for undocumented immigrants, *The Sacramento Bee*, 7 December 2016, <http://www.sacbee.com/news/politics-government/capitol-alert/article119467653.html>. The bill was re-referred to the Committee on Appropriations on 31 January 2017. See at [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180SB54).

<sup>39</sup> Caitlin Dickerson, How U.S. Immigration Judges Battle Their Own Prejudice, *The New York Times*, 4 October 2016, <http://www.nytimes.com/2016/10/05/us/us-immigration-judges-bias.html>.

<sup>40</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 49.

<sup>41</sup> International Commission of Jurists, Principles on the Role of Judges and Lawyers in relation to Refugees and Migrants, May 2017, available at: <https://www.icj.org/rmprinciples/>.

<sup>42</sup> <https://www.moas.eu>.

<sup>43</sup> Chamblee, John F. et al. "Mapping Migrant Deaths in Southern Arizona: The Humane Borders GIS." *Humane Borders* 2005, available at <http://www.aaas.org/sites/default/files/migrate/uploads/migrant-report.pdf>.

*Principle 4: Rescue and assistance**Protect the lives and safety of migrants and ensure rescue and immediate assistance to all migrants facing risks to life or safety*

The Italian Red Cross provides first line primary health support at disembarkation points in Italy. Once migrants arrive, doctors from the Ministry of Health conduct an on-board medical check. Then, Italian Red Cross volunteers take care of the migrants when they disembark from the ships at the ports; volunteers perform triage on the docks to identify the most vulnerable migrants. Depending on their condition, migrants are either referred to hospitals or treated at medical posts. Other services provided by the Italian Red Cross at disembarkation are hospital transportation, distribution of relief items, restoring family links, psychosocial support, and advice on health issues and services.<sup>44</sup>

The government of Zambia collaborated with the IOM, UNHCR and the United Nations Children's Fund to develop a National Referral Mechanism and associated Guidelines to effectively identify vulnerable migrants and refer them to appropriate authorities and services. More than 200 frontline officers have received training on the mechanism and associated guidelines.<sup>45</sup>

The Republic of Macedonia has adopted Standard Operating Procedures for Vulnerable Individuals-Foreigners, and Standard Operating Procedures for Unaccompanied and separated children, which support protection activities implemented in the transit centers.<sup>46</sup>

Kids Café provided a safe welcoming space for unaccompanied minors in the Calais Jungle. Established by a refugee and a volunteer, the café provided 200 meals a day, English and French classes, and asylum advice for the hundreds of unaccompanied children who lived there. The café was also a space where the children could be registered. The café had a drum kit, pool table, dart board and some sofas. The children could get warm meals a day, for free, and it was one of the few spaces the children could call their own.<sup>47</sup>

A State-civil society partnership plan involving El Salvador, Guatemala and Honduras has been developed to improve the lives of young children and address humanitarian and social problems associated with unaccompanied children migrating to the United States.<sup>48</sup>

<sup>44</sup> IFCR, Smart practices that enhance the resilience of migrants. available at: <http://media.ifrc.org/global-review-on-migration/smart-practice/first-line-response-at-landings-italy/>.

<sup>45</sup> International Detention Coalition, *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised Edition)* Melbourne: IDC, 2015, p. 37. See the National Referral Mechanism available at <https://www.iom.int/files/live/sites/iom/files/Country/docs/National-Referral-Mechanism-NRM-for-the-Protection-of-Vulnerable-Migrants-in-Zambia.pdf>; and the related Guidelines available at [https://www.iom.int/files/live/sites/iom/files/Country/docs/Guidelines\\_Protection-Assistance-for-Vulnerable-Migrants.pdf](https://www.iom.int/files/live/sites/iom/files/Country/docs/Guidelines_Protection-Assistance-for-Vulnerable-Migrants.pdf).

<sup>46</sup> Republic of Macedonia's submission for OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>47</sup> Save the Kids Cafe — Sauvons le Café des Enfants, <https://www.change.org/p/save-the-kids-cafe-sauvons-le-caf%C3%A9-des-enfants>; Update: The Kids Cafe Isn't Closing <https://www.change.org/p/save-the-kids-cafe-sauvons-le-caf%C3%A9-des-enfants/u/17549747>; Jungle Books 'Kids Restaurant', Calais, <https://mydonate.bt.com/events/junglebookskidsrestaurant/>.

<sup>48</sup> Human Rights Council, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, A/HRC/32/20, 11 April 2016, para. 29, citing Permanent Mission of El Salvador to the United Nations Office at Geneva.

---

*Principle 4: Rescue and assistance**Protect the lives and safety of migrants and ensure rescue and immediate assistance to all migrants facing risks to life or safety*

---

During the large influx of migrants into Malmo in the autumn of 2015, the Swedish Red Cross created a condensed version of their volunteer training programme that can be rolled out quickly when the urgency of the response and associated time constraints preclude volunteers from undergoing the full training programme. Due to the abridged nature of the training, volunteers were also encouraged to consult the e-learning platform and work closely with more experienced colleagues.<sup>49</sup>

In Tunisia, Médecins Sans Frontières trained local fishermen in search and rescue, and teams from the Tunisian and Libyan Red Crescents in dead body management.<sup>50</sup>

In Italy, the Extraordinary Commissioner for Missing Persons (CSPS) constantly updates the National Register of Unidentified Bodies and national statistics on missing persons. In 2010, the CSPS and the Public Security Department of the Ministry of Interior developed a new information system, called Ri.Sc. (Missing People Research, in Italian “Ricerca Scomparsi”). The Ri.Sc. system, in addition to the complete and interconnected management of information, enables to make a cross between biometric and descriptive data saved in the ‘missing person’ file with those collected in the ‘unidentified corps’ file.<sup>51</sup>

In Arizona, USA, Tucson-based grassroots organization Derechos Humanos operates the Missing Migrant Hotline Project, to help families locate loved ones who go missing while crossing the border. Staff and volunteers respond to three types of calls: migrants lost in detention, migrants lost in the desert, and those who died while crossing the US-Mexico border. The organisation keeps an updated record of the number of bodies recovered and, with the cooperation of Arizona county officials, as well as the Consular offices of México, Guatemala, El Salvador, Honduras, and Brazil, and the Binational Migration Institute, attempts to put names to those who have been recovered.<sup>52</sup>

The Last Rights Project is developing a set of principles in order to clarify which steps states should take when dealing with dead, missing and bereaved migrants. The guidance draws upon international human rights, humanitarian, maritime and criminal law and aims at ensuring that the rights of missing and dead and bereaved family members are respected.<sup>53</sup>

---

<sup>49</sup> International Federation of Red Cross and Red Crescent Societies’ (IFRC), Crash courses for volunteers responding to mass movements, Sweden — Swedish Red Cross, *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/enabler/crash-courses-for-volunteers-responding-to-mass-movements-sweden/>.

<sup>50</sup> <http://www.msf.org/en/topics/mediterranean-migration>. See also L. Siggins, Tunisian fishermen request training in sea rescue techniques: Médecins San Frontières instruct seafarers in how to help migrants in difficulty, *Irish Times*, 7 September 2015, available at <http://www.irishtimes.com/news/ireland/irish-news/tunisian-fishermen-request-training-in-sea-rescue-techniques-1.2342339>.

<sup>51</sup> Mediterranean Missing, *Missing Migrants: Management of Dead Bodies in Sicily — Italy Country Report*, September 2016, p. 28, available at <http://www.mediterraneanmissing.eu/wp-content/uploads/2015/10/Mediterranean-Missing-Italy-report-long.pdf>. In Italian see also

[http://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala\\_stampa/notizie/persona\\_scomparsa/0538\\_201010\\_18\\_approf\\_risc.html](http://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_stampa/notizie/persona_scomparsa/0538_201010_18_approf_risc.html).

<sup>52</sup> Derechos Humanos’ Missing Migrant Hotline Project, <http://derechoshumanosaz.net/missing-migrant-project-2/>, with data from the project available at <http://derechoshumanosaz.net/remembering-the-dead/>.

<sup>53</sup> Information on the Last Rights Project is available at <http://lastrights.net/home/4592071170>.



---

*Principle 5: Border governance*

*Ensure that all border governance measures protect human rights, including the right to freedom of movement and the right of all persons to leave any country, including their own, recognizing that States have legitimate interests in exercising immigration controls*

---

Article 40 of the Constitution of Ecuador recognizes the right of all individuals to migrate.<sup>54</sup>

Article 4 of Argentina's Immigration Law (Law 25.871), enacted in January 2004, recognises the right to migrate base on the principles of equality and universality.<sup>55</sup>

The Kino Border Initiative is located in Nogales, Arizona and Sonora, Mexico, and works on both sides of the Mexico-US border, offering migrants meals, clothes, first aid, and safety tips.<sup>56</sup>

Resource: UNHCR and IDC have published a Vulnerability Screening Tool to assist governments and other stakeholders to identify and address situations of vulnerability in the context of migration and asylum.<sup>57</sup>

Azerbaijan and Bosnia and Herzegovina have undertaken various initiatives for training public officials on migration and trafficking in persons, including on the application of the provisions of the international human rights framework. Colombia provides training to its immigration authorities on provisions relating to human rights and migration, refugee law and trafficking in persons and smuggling of migrants. In Romania, immigration officials working in locations such as ports, airports and border crossings benefit from training programmes on the practical application of human rights standards.<sup>58</sup>

Resource: OHCHR produced the Recommended Principles and Guidelines on Human Rights at International Borders in 2014.<sup>59</sup>

OHCHR in collaboration with UNHCR has provided training sessions to the staff of European Union naval ships in the Mediterranean Sea on human rights in law enforcement, the human rights of migrants, the standards of treatment for all those rescued or intercepted at sea and the protection and human rights of refugees.<sup>60</sup>

Facilitated by FRONTEX, OHCHR has provided training of trainers of border guards in member and non-member states of the European Union on human rights, focusing on the human rights of migrants.<sup>61</sup>

---

---

<sup>54</sup> OHCHR, Study on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration, A/HRC/15/29, 5 July 2010, para. 80; General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 42. In Spanish, Constitution of Ecuador, Article 40, available at: [http://www.asambleanacional.gov.ec/documentos/constitucion\\_de\\_bolsillo.pdf](http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf).

<sup>55</sup> International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne, IDC, 2015, available at <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

<sup>56</sup> <https://www.kinoborderinitiative.org>; Lourdes Medrano, Modern migrants pose new challenges to Mexican border towns, *The Christian Science Monitor*, 17 February 2013, <http://www.csmonitor.com/World/Americas/2013/0217/Modern-migrants-pose-new-challenges-to-Mexican-border-towns>.

<sup>57</sup> UNHCR and IDC, *Vulnerability Screening Tool*. Geneva: UNHCR 2016, available at <http://idcoalition.org/publication/identifying-and-addressing-vulnerability-a-tool-for-asylum-and-migration-systems/>.

<sup>58</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 55.

<sup>59</sup> OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*. A/69/CRP. 1, 23 July 2014, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/InternationalBorders.aspx>.

<sup>60</sup> General Assembly, Report of the Secretary-General pursuant to Security Council resolution 2240, S/2016/766, 21 September 2016, para. 28.

<sup>61</sup> Human Rights Council, Technical cooperation and capacity-building to promote and protect the rights of all migrants, including women, children, older persons and persons with disabilities: Report of the High Commissioner for Human Rights, A/HRC/31/80, 25 January 2016, para. 43.

*Principle 6: Returns*

*Ensure that all returns are only carried out in full respect for the human rights of migrants and in accordance with international law, including upholding the principle of non-refoulement, the prohibition of arbitrary or collective expulsions and the right to seek asylum*

The Centre for Care for the Returned Migrant (CAMR), located in Honduras, is an initiative of the Government of Honduras administered by the Honduran Red Cross. The centre offers the following services, among others, to returned migrants: (1) reception, (2) registration, (3) food and water, (4) health services, (5) transport, (6) a chapel or prayer room, (7) a phone call, (8) toilets and hygiene services, (9) clothing and footwear, (10) gender-separate accommodation, (11) information on employment programmes. The Belen Care Centre for Returning Underage Migrants (CANFM-Belen) is led by the Department of Children, Youth and Family. It offers similar services and in addition: (1) a gender- and age-separated playground area, (2) psychological support, (3) social work, (4) gardens and green areas, (5) gender- and age-separated accommodation, and (6) vocational training, among others.<sup>62</sup>

The International Committee of the Red Cross (ICRC), in collaboration with the Mexican and Central American National Societies, provides free assistance to migrants (in transit or returned) who have suffered major illnesses or injuries during their journey (including amputations, spinal cord injuries, etc.). They offer the following services: (1) donation of prostheses (before physical rehabilitation), (2) osteosynthesis materials, wheelchairs and crutches, (3) ambulance transfers, (4) referral to rehabilitation and medical care centres in Mexico and Central America, and (5) reestablishment of family links when necessary.<sup>63</sup>

Sri Lanka has implemented programmes addressed to returnees in the areas of education, social security, housing, employment and psychosocial assistance.<sup>64</sup>

Mali has implemented measures aimed at the economic reintegration of returnees, such as the creation of an information desk and an agreement with two banks.<sup>65</sup>

Ecuador Organic Law on Human Mobility sets out the rights that Ecuadorian returning migrants enjoy, including the right to information on return, social and economic inclusion, education, vocational training, recognition of educational qualifications and skills, transfer of educational achievements, and retirement benefits.<sup>66</sup>

Caritas Ukraine has implemented several projects aimed at sustainable reintegration after return, based on the following principles: individual approach; building of trustful relations; regular contacts with returnees.<sup>67</sup>

<sup>62</sup> Centre for Care for the Returned Migrant (CAMR), Honduras, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/centre-for-care-for-the-returned-migrant-camr-honduras/>.

<sup>63</sup> Assistance to migrants with physical disabilities, Mexico and Central America, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/assistance-to-migrants-with-physical-disabilities-mexico-and-central-america/>.

<sup>64</sup> Sri Lanka's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>65</sup> Mali's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>66</sup> Ecuador, Ley Organica de Movilidad Humana, Articles 27-37.

<sup>67</sup> Caritas Ukraine's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

*Principle 6: Returns*

*Ensure that all returns are only carried out in full respect for the human rights of migrants and in accordance with international law, including upholding the principle of non-refoulement, the prohibition of arbitrary or collective expulsions and the right to seek asylum*

Post-return monitoring is carried out by local NGOs in Uganda for unaccompanied or separated children returning from Norway and in the Democratic Republic of Congo for unaccompanied or separated children returning from Belgium. This includes, in some instances, post-return support for families.<sup>68</sup>

The International Refugee Rights Initiative has established a Post-Deportation Monitoring Network that connects lawyers and organizations working in deporting and receiving countries.<sup>69</sup> Among these organizations, ANAFE has put in place a monitoring system for individuals who are returned after decisions of non-admission at French borders.<sup>70</sup> The Refugee Law Project in Uganda runs a post-deportation project and offers a number of services to people who are deported to Uganda.<sup>71</sup> The Refugee Support Network's Youth on the Move project, through a Kabul-based Monitoring Officer, tracked well-being, education and employment outcomes for young Afghans who have been forcibly removed to Afghanistan after turning 18.<sup>72</sup> The Edmund Rice Centre sends teams of researchers to follow up on returned failed asylum seekers deported from Australia.<sup>73</sup>

UN-Women has supported paralegal training for organisations that support returnee women migrant workers in Nepal and that deal with cases of labour rights violations and violence against women.<sup>74</sup>

In Romania, the General Inspectorate grants tolerated status and issues a document to persons who cannot leave the Romanian territory but who would not otherwise have a legal basis to remain. Tolerated status is granted for an initial period of six months, renewable for further six-month periods until the reasons for toleration cease to exist. At that time, the individual is required to depart the country. Individuals holding a tolerated status document have the right to work. They are required to report regularly to a territorial unit of the General Inspectorate and to reside in a particular geographical area. They must obtain approval to travel outside of this area and must notify authorities of any changes to their place of residence.<sup>75</sup>

Under Turkey's Law on Foreigners and International Protection (LFIP, 2014), humanitarian residence permits are issued to individuals who are at risk of torture/ill-treatment if expelled; are unable to travel due to poor health, age or pregnancy; require medical treatment that cannot be obtained in the country of origin or return; or are undergoing treatment due to serious psychological, physical or sexual violence, from deportation orders and, therefore, detention. These permits can also be issued to individuals for whom a deportation order has been issued but who cannot be deported (e.g. because their country of origin refuses to accept their return). Permit holders may be required to reside at designated reception and accommodation centres and to report to authorities at specified periods. The permit includes a foreigner identification number, which is used to access health care, education and legal services.<sup>76</sup>

<sup>68</sup> UNHCR and UNICEF, *Safe and Sound: What States can do to Ensure Respect for the Best Interests of Unaccompanied and Separated Children in Europe*, 2014, p. 49.

<sup>69</sup> <http://www.refugeelegalaidinformation.org/post-deportation-monitoring>.

<sup>70</sup> <http://www.anafe.org/spip.php?mot11>.

<sup>71</sup> <http://www.fmreview.org/resettlement/onyoin.html>.

<sup>72</sup> <http://www.refugeesupportnetwork.org/resources/after-return>.

<sup>73</sup> <http://www.refugeelegalaidinformation.org/australia-post-deportation-monitoring>.

<sup>74</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/68/178, 23 July 2013, para. 59.

<sup>75</sup> Tolerated status is granted to persons satisfying the criteria laid out in Article 99 of Romania's Emergency Ordinance 194/2002 on alien's regime in Romania. European Migration Network, *The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014*, European Commission, 34; International Detention Coalition (IDC), *Hosting transit migrants*, submission to the Office of the High Commissioner for Human Rights for the *report Situation of migrants in transit*, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/Studymigrantsintransit.aspx>.

<sup>76</sup> International Detention Coalition (IDC), *Hosting transit migrants*, Submission on 'migrants in transit' to the Office of the High Commissioner for Human Rights, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/Studymigrantsintransit.aspx>.

---

*Principle 7: Violence**Protect migrants from all forms of violence and exploitation, whether inflicted by institutions or officials, or by private individuals, entities or groups*

---

Cambodia, China, Jamaica, Japan, Namibia, Norway, Peru, Qatar, Singapore and Sweden have reported on provisions of their penal codes that address violence against all women, including migrant workers. Some States have introduced legislation, articles or penalties that respond specifically to violence against migrant workers; Singapore has introduced a specific penalty for abuse of foreign domestic workers.<sup>77</sup> Bosnia and Herzegovina, Cambodia, Greece, Italy, Jamaica, Peru and Namibia have reported on the adoption of national policies and strategies to combat violence against women and children that respond to migrant women.<sup>78</sup>

The Swedish Trade Union Centre for Undocumented Migrants was created in 2008 by a number of Swedish trade union organisations, together with an organisation promoting the rights of undocumented migrants. The objectives of the centre are to inform undocumented migrants about their rights in the labour market and represent them vis-à-vis their employers in any proceedings if they so wish. In addition to the network of trade union organisations, the centre consists of a centre, open one afternoon and evening every week and staffed by trade union ombudsmen and officials from the participating organisations. It also provides a phone service giving information and helping irregular migrants get in contact with a trade union.<sup>79</sup>

Resource: The Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea Region were designed by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) to respond to challenges in effective cross-border cooperation and prevent the abuse of workers' rights. The guidelines are available in English, Estonian, Finnish, Lithuanian and Swedish.<sup>80</sup>

Resource: The publication 'EU anti-trafficking action 2012-2016 at a glance' provides an overview of the work carried out in the past five years on the basis of the EU legal and policy framework to address trafficking in human beings (Directive 2011/36/EU and the EU Strategy towards the eradication of trafficking in human beings 2012-2016). The publication includes, amongst other relevant references: a) Handbook on Guardianship systems for children deprived of parental care in the European Union, with a particular focus on their role in responding to child trafficking; b) The Guidelines for the identification of victims of trafficking in human beings, especially for consular services and border guards; c) The EUROFUND report Regulation of Labour Market Intermediaries and the Role of Social Partners in Preventing Trafficking of Labour.<sup>81</sup>

---

<sup>77</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 32.

<sup>78</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 37.

<sup>79</sup> European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: workers moving within or into the European Union — States' obligations and victims' rights*, FRA 2015, p. 85; Solidar, *Undocumented migrants: equal access to labour and social rights?*, Decent work for all: A key for effective industrial relations briefing on the situation in Sweden, 2014, [http://www.solidar.all2all.org/IMG/pdf/20\\_solidar\\_brochsweden\\_light.pdf](http://www.solidar.all2all.org/IMG/pdf/20_solidar_brochsweden_light.pdf).

<sup>80</sup> Liliana Sorrentino and Anniina Jokinen, *Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region*, European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), 2014, available at <http://www.cbss.org/wp-content/uploads/2012/11/ADSTRINGO-Guidelines.pdf>; European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: workers moving within or into the European Union — States' obligations and victims' rights*, FRA 2015, p. 57.

<sup>81</sup> European Union's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28). The publication is available at [https://ec.europa.eu/anti-trafficking/publications/eu-anti-trafficking-action-2012-2016-glance\\_en](https://ec.europa.eu/anti-trafficking/publications/eu-anti-trafficking-action-2012-2016-glance_en).

*Principle 7: Violence**Protect migrants from all forms of violence and exploitation, whether inflicted by institutions or officials, or by private individuals, entities or groups*

Caritas Bangladesh works on the prevention of trafficking at the community level, for instance building the capacity and raising the awareness of community based organizations' leaders and creating local Migrants Sub-Committee, which are playing a watchdog role in combating human trafficking.<sup>82</sup>

Following the money trail to detect and investigate human trafficking is proving to be an effective strategy to identify potential victims. Launched in early 2016, Project PROTECT, a public-private sector initiative has gathered the major Canadian banks, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and law enforcement to support the identification and reporting of financial transactions suspected of being related to human trafficking.<sup>83</sup>

In New Zealand, employers who exploit migrants can be imprisoned for up to 7 years and/or fined up to \$100,000. The New Zealand Government has developed an approach to reassure migrants that they will not be disadvantaged by coming forward to relevant agencies with any genuine claims of workplace exploitation. Immigration New Zealand has developed resources specifically targeted at migrant groups and sectors in which migrants have been identified as vulnerable to workforce exploitation, including international students, Pacific migrants and those working in the dairy farming, construction, or aged care sector. To achieve the outcomes set Migrant Exploitation Prevention Strategy, government agencies continue to progress a wide ranging programme of work to address exploitation and trafficking in New Zealand. The result has been an integrated Government-wide view of the work priorities needed to prevent, detect, and combat trafficking and exploitation.<sup>84</sup>

Several EU Member States reported the possibility of referring victims of gender-based violence to specialised women's shelters, providing immediate and safe accommodation to female victims of violence and their children, such as Austria, Greece, Germany, Italy, Hungary and Sweden. In Hungary, there is one special accommodation available for victims of sexual violence, torture or rape at the protected shelter in Kiskunhalas. In Sweden, the Swedish Migration Agency must offer safe housing for all persons who are victims of violence or threats of violence.<sup>85</sup>

In Greece, the National Centre for Social Solidarity (EKKA) is a State Organization under the supervision and monitoring of the Ministry of Labor, Social Security & Social Solidarity. It is funded solely by the State. EKKA offers protection and psychosocial support to victims of violence, mainly domestic violence and trafficking. The services provided to victims, according to their individualized needs, are: shelter to women victims; counselling/psychotherapy; social support; material assistance; mediation to health care, legal counselling and representation, issuing of residence permit; integration activities; repatriation procedure; translation services. EKKA manages one emergency shelter in Attica for women and girls victims of violence, as well as two short-term shelters in Attica and Thessaloniki (part of which operates also as an emergency shelter for the region).<sup>86</sup>

<sup>82</sup> Caritas Bangladesh's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>83</sup> Canada's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>84</sup> New Zealand's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>85</sup> European Union Agency for Fundamental Rights, Thematic focus: Gender-based violence, <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence>.

<sup>86</sup> Greece's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

*Principle 7: Violence**Protect migrants from all forms of violence and exploitation, whether inflicted by institutions or officials, or by private individuals, entities or groups*

In Greece, the “National Program for the Prevention and Combating Violence against Women” has established a network against violence made up of 62 state structures: the SOS telephone helpline 15900, forty Counseling Centers and twenty-one shelters in operation throughout the country. These services are dedicated to all forms of gender based violence against women and support the special needs of people with physical disabilities.<sup>87</sup>

Several States (Bosnia and Herzegovina, Germany, Greece, Jamaica, Norway, Paraguay, Peru, the Philippines, Qatar, Singapore and the United Arab Emirates) have reported that they had put into place services and mechanisms to protect migrant women survivors of violence, including making information services available. Such services took the form of multilingual telephone hotlines and e-mail addresses and the provision of information on shelters, dormitories, legal aid, health services, compensation and redress. Certain States (Bosnia and Herzegovina, Germany, the Philippines and Singapore) highlighted the importance of establishing partnerships with non-State actors in the provision of those services. Germany, Greece and the Philippines reported on the effectiveness of the results of their service provision.<sup>88</sup>

The Argentinian National Council for Women (Consejo Nacional de las Mujeres), which is in charge of the implementation of the National Plan for the Prevention, Assistance and Eradication of Violence against Women, manage an hotline for women victims of violence.<sup>89</sup>

The Government of the former Yugoslav Republic of Macedonia adopted in February 2017 “Standard Operating Procedures for the prevention and addressing gender based violence during emergency and crisis situations” (GBV SOPs), as part of wider National Preparedness and Response Plan of the Health Sector in Emergencies. The GBV SOPs are first of this kind in the country and were developed in a coordinated multi-sectorial effort of UN offices, governmental institutions, civil society, under the leadership of the Ministry of Health. Beside them, the Government, supported by the UNFPA, also approved a Protocol for sexual and reproductive health services in mobile clinics, Action Plan for 2016 coordination of SRH in crisis and related ToRs defining relevant actors’ roles and responsibilities.<sup>90</sup>

The Texas Association Against Sexual Violence (TAASA) has produced a Guidebook for Immigrant Victims, outlining their rights, access to remedies and agencies, associations and resources for service provision.<sup>91</sup>

The LGBT group “Fliederlich” in Germany opened the first shelter for LGBT migrants in Nuremberg, at the request of a number of LGBT migrants who felt threatened in the shelters where were accommodated. There were also plans to open a larger shelter in Berlin.<sup>92</sup>

<sup>87</sup> Greece’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>88</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 47, available at <http://evaw-un-inventory.unwomen.org/fr/intl-policy-framework/general-assembly-of-the-united-nations>.

<sup>89</sup> Argentina’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>90</sup> Information submitted by the Office of the UN Resident Coordinator in Macedonia.

<sup>91</sup> Texas Association Against Sexual Assault, Guidebook for Immigrant Victims (Austin, 2006), available from [www.taasa.org/publications/pdfs/ImmigrationViolenceGB.pdf](http://www.taasa.org/publications/pdfs/ImmigrationViolenceGB.pdf), quoted in UNODC, *Combating violence against migrants: Criminal justice measures to prevent, investigate, prosecute and punish violence against migrants, migrant workers and their families and to protect victims*, 2015.

<sup>92</sup> Parliamentary Assembly of the Council of Europe, Committee on Migration, Refugees and Displaced Persons, Rapporteur: Mr. Andrea RIGONI, Italy, ALDE: Violence against migrants, Doc. 13444, Reference 4040 of 11 April 2014, para. 38, <http://website-pace.net/documents/10643/2031071/Rapport-Rigoni-EN.pdf/2d8af712-597a-4c34-972d-ce35b91a39ef>.

---

*Principle 7: Violence**Protect migrants from all forms of violence and exploitation, whether inflicted by institutions or officials, or by private individuals, entities or groups*

---

Greece has established a gender-sensitive counselling methodology for interaction of lawyers, social workers and psychologists with migrant women who have been victims of abuse.<sup>93</sup>

Resources: UNFPA, Minimum Standards for Prevention and Response to Gender-based Violence in Emergencies; Inter-Agency Standing Committee, Guidelines for Integrating Gender Based Violence Interventions in Humanitarian Action; Interagency Working Group (IAWG) on Reproductive Health in Crises, Minimum Initial Service Package (MISP) for Reproductive Health in Crisis Situations.

On 18 December 2015, International Migrants Day, Mexico's Attorney General's Office (Procuraduría General de la República, PGR) formally established two bodies to investigate crimes committed against or by migrants in Mexico, as well as cases of Mexicans who have disappeared in other countries. These two bodies are the Unit for the Investigation of Crimes for Migrants (Unidad de Investigación de Delitos para Personas Migrantes, the "Unit") and the Mechanism for Mexican Foreign Support in the Search and Investigation (Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación, the "Mechanism").<sup>94</sup>

In Amsterdam, the anti-discrimination unit of the police has started the "Veilige Aangifte" (Safe Return) initiative in which they inform undocumented migrants about their rights, and enable them to report crimes in secure way. Their "free in, free out" approach allows migrants to report crimes without fear of arrest. The unit visits the migrant support centre Wereldhuis once a month to meet with a group of undocumented migrants, and answer queries on key thematic issues such as lodging a complaint, getting a protection order, and taking a case to court.<sup>95</sup>

---

*Principle 8: Detention**Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents*

---

The International Detention Coalition has developed the Community Assessment and Placement (CAP) model, which is a tool for governments, civil society and other stakeholders to build systems that ensure detention is only used as a last resort and that community options result in optimal outcomes. The CAP model combines the overarching principles of liberty (presumption against detention) and minimum standards with three key steps: 1) identification and decision making; 2) placements options; 3) case management.<sup>96</sup>

---

<sup>93</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/68/178, 23 July 2013, para. 36.

<sup>94</sup> Mexico submission to OHCHR for the GA report, and Maureen Meyer and Ximena Suarez-Enriquez, New Institutions in Mexico Could Expand Justice for Migrants, *WOLA*, 3 May 2016, available at <https://www.wola.org/analysis/new-institutions-in-mexico-could-expand-justice-for-migrants/>. See Agreement A/117/15 on the Crimes Investigation Unit for Persons Migrants and Mexican Foreign Support Mechanism Search and Research, available at [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5420681&fecha=18/12/2015](http://www.dof.gob.mx/nota_detalle.php?codigo=5420681&fecha=18/12/2015).

<sup>95</sup> Platform for International Cooperation on Undocumented Migrants, *Strategies to End Double Violence against Undocumented Women: Protecting Rights and Ensuring Justice*, PICUM 2012, p. 114.

<sup>96</sup> International Detention Coalition, *There are alternatives*, 2015, available at: <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

*Principle 8: Detention*

*Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents*

Alternatives to detention in law, policy or practice have been documented in states including New Zealand, Venezuela, Japan, Switzerland, Lithuania, Denmark, Finland, Norway, Sweden, Austria, Germany, and Canada.<sup>97</sup>

Lithuanian law contains a list of alternatives to detention, including: periodic reporting to the territorial police office at a reporting frequency decided by the court; trusting the foreigner to the guardianship of a citizen or a foreigner legally residing in the country; or reporting about her place of stay by means of communication at certain times to the territorial police office.<sup>98</sup>

All European Union countries, except for Cyprus and Malta, have legislated that alternatives to detention must be pursued prior to any decision for detention. The 2004 immigration law of the Bolivarian Republic of Venezuela prohibits detention and provides several alternatives that may be adopted within a deportation procedure, including reporting regularly to the competent authority, settling in a given locality during the administrative procedure and providing a financial security guarantee (for which the migrant's economic condition must be taken into account).<sup>99</sup>

The Canadian Border Services Agency (CBSA) is required by law to consider all reasonable alternatives before detention, which is a measure of last resort.<sup>100</sup>

In Slovenia, third country nationals subject to a deportation order may be required to report to the nearest police station instead of being placed in detention. Individuals are usually required to report once per month.<sup>101</sup>

Austria has established in law that alternatives must first be considered or applied before a decision to detain is made.<sup>102</sup> The Aliens Police Act stipulates that individuals shall be provided with an alternative to detention if the grounds for detention are present and the purpose of detention can be achieved by their provision.<sup>103</sup> The law establishes conditions that can be imposed as an alternative to detention including residing at a particular address determined by the authority; reporting periodically to the police station.

<sup>97</sup> International Detention Coalition and La Trobe Refugee Research Centre, *There are Alternatives: A handbook for preventing unnecessary immigration detention*, IDC 2011, p. 22.

<sup>98</sup> P. De Bruycker (Ed.), *Alternatives to Immigration and Asylum Detention in the EU: Time for Implementation*, Odysseus Network, 2015, Annex I.

<sup>99</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 79, available at [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=22380](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=22380).

<sup>100</sup> Canada's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>101</sup> International Detention Coalition (IDC), *Hosting transit migrants*, Submission on 'migrants in transit' to the Office of the High Commissioner for Human Rights, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/Studymigrantsintransit.aspx>.

<sup>102</sup> International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne, IDC 2015, p. 20, available at <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

<sup>103</sup> Federal Act on the Exercise of Aliens' Police, the Issue of Documents for Aliens and the Granting of Entry Permits (2005 Aliens' Police Act — Fremdenpolizeigesetz 2005), Article 77, paragraph 1 and 3.



*Principle 8: Detention*

*Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents*

Poland has passed legislation providing for a mandate to consider alternatives to immigration detention.<sup>104</sup> Article 398 of the New Act on Foreigners provides for the Polish Border Guard authority to apply any one or more of the following conditions: 1) Reporting at specified intervals to the Polish Border Guard; 2) Lodging a security deposit, no lower than twice the amount of the minimum wage stipulated by minimum wage law; 3) Surrendering of travel documents; 4) Directed residence at a location specified by the authorities.

Section 315 of the New Zealand Immigration Act 2009 outlines specific conditions that may be applied to a person who would otherwise be subject to detention, including reporting, guarantors, and undertaking actions towards case resolution.<sup>105</sup>

Article 107 of Mexico's Migration Law lists specific standards that must be ensured in immigration detention, including: medical, psychological and legal aid (para. 1); adequate food, including three meals a day of sufficient quality. Meals should meet the special needs of children, adolescents, the elderly, pregnant or breastfeeding women, persons with specific health conditions, and other vulnerable people, and respect religious traditions (para. 2); separate facilities for men and women. Children should join their mothers or fathers or other persons accompanying them, except if this is not in the children's best interest (para. 3); adequate space; accommodation should not be overcrowded (para. 6); recreational, sports and cultural facilities (para. 7).<sup>106</sup>

In Mexico, the Mexican Regulation (Reglamento) for the Law on the Rights of Children and Adolescents prohibit the immigration detention of children, regardless of whether they are accompanied or not by an adult. (Article 111, 2 December 2015).<sup>107</sup>

In 2008, Panama introduced a law prohibiting the detention of child migrants.<sup>108</sup>

Article 47 of the Costa Rica's Refugee Regulation (No. 36831-G) prohibits the detention of all children regardless of whether they are accompanied, unaccompanied or separated.<sup>109</sup>

The Irish International Protection Act 2015 states that a person who has not yet reached the age of 18 may not be detained in immigration detention centres. Specifically, Part 3, Section 20, Subsections (1)-(5) of the Act outline the grounds for detention of foreigners in the Republic of Ireland.

<sup>104</sup> International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne, IDC 2015, p. 20, available at <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

<sup>105</sup> International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne, IDC 2015, p. 20, available at <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>.

<sup>106</sup> Mexico's Immigration Law, Article 107 (DOF 21-04-2016). Available at <http://www.google.ch/url?url=http://sre.gob.mx/component/phocadownload/category/2-marco-normativo%3Fdownload%3D294:ley-de-migracion-dof-25-05->.

<sup>107</sup> México, Reglamento de la Ley General de los Derechos de Niñas, Niños y Adolescentes, 2 Diciembre 2015, art. 111, available at [http://www.diputados.gob.mx/LeyesBiblio/regley/Reg\\_LGDNNA.pdf](http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDNNA.pdf).

<sup>108</sup> General Assembly, Status of the Convention on the Rights of the Child: Report of the Secretary-General, A/71/413, 27 September 2016, para. 40; International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne, IDC 2015, pp. 24.

<sup>109</sup> Center for Gender & Refugee Studies, University of California Hastings College of the Law, *Review of Gender, Child, and LGBTI Asylum Guidelines and Case Law in Foreign Jurisdiction*, May 2014, pag. 19, available at <http://www.refworld.org/pdfid/54fd6f204.pdf>. The Refugee Regulation is available at: <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/8171.pdf>.

*Principle 8: Detention*

*Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents*

Subsection (6) states that: [detention] shall not apply to a person who has not attained the age of 18 years.<sup>110</sup>

In the UK, the Family Returns Process has reduced the detention of family with children, with 97% of the 1470 families who left the country in 2014-16 leaving the UK without enforcement action or detention. The Independent Family Returns Panel ascribes the improved rates of non-enforced return to improved engagement and dialogue with families involving a “Family Engagement Manager” (FEM), noting that the FEM role helps families to understand the process and prepare for a return both practically and psychologically.<sup>111</sup>

At the global level, the Global Campaign to End Immigration Detention of Children was launched in 2012 to draw attention to the detrimental effects that immigration detention has on children, and to encourage states to cease the immigration detention of children consistent with their obligations under the Convention on the Rights of the Child. The Campaign coordinates international, regional and national activities urging states to adopt alternatives to detention that fulfil the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.<sup>112</sup>

Under the Turkey’s Law on Foreigners and International Protection (LFIP, 2014) detention is prohibited for unaccompanied children seeking international protection, trafficked persons, international protection status holders, international protection applicants (except in set circumstances) and stateless individuals. The LFIP also exempts individuals who are at risk of torture/ill-treatment if expelled; are unable to travel due to poor health, age or pregnancy; require medical treatment that cannot be obtained in the country of origin or return; or are undergoing treatment due to serious psychological, physical or sexual violence, from deportation orders and, therefore, detention. Such individuals are issued with humanitarian residence permits (with specific permits for trafficked persons).<sup>113</sup> Unaccompanied children are placed “by the Ministry of Family and Social Policies in suitable accommodation facilities, in the care of their adult relatives, or in the care of a foster family, upon taking into account the opinion of the unaccompanied minor.” If they are over 16 they can be placed in reception centres.<sup>114</sup>

In March 2007, New Zealand ratified Optional Protocol to the Convention against Torture to allow visits by the Subcommittee on Prevention and the National Preventive Mechanism. The Office of the Ombudsman has been designated as the National Preventive Mechanism for immigration detention facilities.<sup>115</sup>

In relation to immigration detention, some States have ensured that independent and regular detention monitoring is conducted at the national level. For example, such monitoring has been conducted by the national human rights institutions of Fiji, Honduras, Mali, Mauritius, Mexico, Nicaragua, Nigeria, South Africa, Switzerland and Uganda, and the ombudsmen and independent commissions of Ecuador, Hungary, the former Yugoslav Republic of

<sup>110</sup> International Protection Act 2015 (Ireland).

<sup>111</sup> Save the Children’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>112</sup> See <http://endchilddetention.org/> The full list of supporters is at <http://endchilddetention.org/support-2/>.

<sup>113</sup> International Detention Coalition (IDC), *Hosting transit migrants*, Submission on ‘migrants in transit’ to the Office of the High Commissioner for Human Rights, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/StudyMigrantsintransit.aspx>.

<sup>114</sup> International Detention Coalition’s submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations.

<sup>115</sup> New Zealand Human Rights Commission, *Monitoring Place of Detention*, Annual report of activities under the Optional Protocol to the Convention against Torture (OPCAT), 2015, pag. 26, 43, available at: [https://www.hrc.co.nz/files/6814/4971/3990/Monitoring\\_Places\\_of\\_Detention\\_final\\_2015.pdf](https://www.hrc.co.nz/files/6814/4971/3990/Monitoring_Places_of_Detention_final_2015.pdf).

---

*Principle 8: Detention*

*Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents*

---

Macedonia, Maldives, Montenegro, the Netherlands, New Zealand, Poland, the Republic of Moldova, Senegal, Serbia, Slovenia, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland.<sup>116</sup>

Resource: The UN Refugee Agency (UNHCR), the Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC) have jointly produced a Monitoring Immigration Detention Manual that provides a step-by-step guide for institutions and organizations carrying out immigration detention monitoring. It can also be used by authorities, detention centre staff and journalists, as a checklist of the standards that must be applied when migrants are detained.<sup>117</sup>

Principle V of the Inter-American Commission of Human Rights, *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas* (2008) states that “Persons deprived of liberty in a member State of the Organization of American States of which they are not nationals, shall be informed, without delay, and in any case before they make any statement to the competent authorities, of their right to consular or diplomatic assistance, and to request that consular or diplomatic authorities be notified of their deprivation of liberty immediately. Furthermore, they shall have the right to communicate with their diplomatic and consular authorities freely and in private.”<sup>118</sup>

---

---

*Principle 9: Family unity*

*Ensure the widest protection of the family unity of migrants, facilitating family reunification, and preventing arbitrary or unlawful interference in the right of migrants to the enjoyment of private and family life*

---

In Serbia, Save the Children runs rapid family reunifications of children accidentally separated from their families during transit periods.<sup>119</sup>

Save the Children has helped set up bilateral coordination working groups which consist of government and non-governmental actors from both sides of the borders between Mozambique, South Africa and Zimbabwe. One of the tasks for the groups has been to work to improve protocols and guidelines for family tracing and reunification and for the provision of psychosocial support both for children in shelters and for those who have recently returned to their families.<sup>120</sup>

---

<sup>116</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 89.

<sup>117</sup> Association for the Prevention of Torture (APT) and United Nations High Commissioner for Refugees (UNHCR), *Monitoring Immigration Detention: Practical Manual*, 2014.

<sup>118</sup> Inter-American Commission of Human Rights, *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas* (2008), available at <http://www.cidh.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

<sup>119</sup> Save the Children, *Submission for the Office of the High Commissioner for Human Rights (OHCHR) report on migrants in transit (A/HRC/RES/29/2)*, November 2015, p. 4.

<sup>120</sup> Save the Children, *Submission for the Office of the High Commissioner for Human Rights (OHCHR) report on migrants in transit (A/HRC/RES/29/2)*, November 2015, p. 6.

*Principle 9: Family unity**Ensure the widest protection of the family unity of migrants, facilitating family reunification, and preventing arbitrary or unlawful interference in the right of migrants to the enjoyment of private and family life*

Tracing tools help reconnect families who have lost contact as a consequence of migration. The ‘Snapshot’ programme, run by the ICRC and the National Red Cross and Red Crescent Societies of Ethiopia, Kenya, South Sudan and Uganda, helps people find missing relatives by having their own photos published in booklets that are circulated in camps and communities. If a family member recognizes the photo of a relative and the relationship can be confirmed by the National Society, contact can be restored by means of phone calls or National Society messages. The photos are also published online on [familylinks.icrc.org](http://familylinks.icrc.org) in order to reach a global audience.<sup>121</sup>

In Somalia, the ICRC, in cooperation with the BBC, broadcasts the names of missing Somalis at the request of their families on the ‘Missing persons’ radio programme six times a week. In cooperation with the Somali Red Crescent Society, the ICRC maintains a list of people whose names have been broadcast and for whom tracing requests have been opened by the Red Cross Red Crescent network. This list is also available online on [familylinks.icrc.org](http://familylinks.icrc.org).<sup>122</sup>

With the assistance of the United Nations Children’s Fund, the South African Department of Social Development and the Zimbabwean Ministry of Public Service, Labour and Social Development have developed draft standard operating procedures for the tracing, reunification or alternative care placement of unaccompanied and separated children.<sup>123</sup>

In Belgium, a specialized unit for unaccompanied children has been established in the Immigration Office, with the responsibility to grant residence documentation, conduct family searches and ensure that any family reunification is in the best interest of the child. In addition, specialized centres have been developed for unaccompanied minors.<sup>124</sup>

In Chile, civil unions made abroad are recognized for the purpose of obtaining residence permits without distinguishing the sex of the parties to recognize the validity of the bond.<sup>125</sup>

<sup>121</sup> IFRC, Smart practices that enhance the resilience of migrants. available at: <http://media.ifrc.org/global-review-on-migration/smart-practice/snapshot-programme-and-missing-persons-radio-programme-east-africa/>.

<sup>122</sup> IFRC, Smart practices that enhance the resilience of migrants. available at: <http://media.ifrc.org/global-review-on-migration/smart-practice/snapshot-programme-and-missing-persons-radio-programme-east-africa/>.

<sup>123</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 47.

<sup>124</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 60.

<sup>125</sup> Chile’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

---

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

---

The Constitutional Court of Spain has upheld the right of the child to be heard in the context of unaccompanied children facing repatriation or deportation.<sup>126</sup>

The regional Mixed Migration Secretariat (RMMS) and Save the Children has highlighted that for child migrants peer-to-peer approaches may be effective in communicating self-protection strategies and information about migration risks, and identifying children at risk of exploitation.<sup>127</sup>

Resource: The Recommended Principles to guide actions concerning children on the move and other children affected by migration were developed at an expert meeting in Geneva in May 2016 that included participants from OHCHR, UNHCR, IOM, UNICEF, International Detention Coalition, Save the Children, Terre des Hommes, International Catholic Migration Commission, Destination Unknown Campaign, Caritas, PICUM and Service Social International. They have been endorsed by the UN Committee on the Rights of Migrant Workers and Members of their Families.<sup>128</sup>

Save the Children has developed a best interests determination toolkit to improve the best interests determination process for unaccompanied children on the move in South Africa. Developed within the South African legal and policy frameworks, the toolkit is aimed at field practitioners who manage the identification, documentation, tracing and reunification processes in the country and is designed to ensure children's involvement and take into consideration the range of factors that have contributed to the migratory experience of the child.<sup>129</sup>

The Belgian National Human Rights Institution Myria developed a checklist for practitioners, civil servants and judges to assess if the best interest of the migrant child is duly taken into account in all decisions that concern them. The checklist is based on human standards.<sup>130</sup>

Save the Children has developed a Mobility Assessment Tool (MAT) for children on the move. The MAT is a data collection tool that gathers information about children's reasons for migration, travel plans, needs while in transit, destinations, coping mechanisms, and suggestions of required services. The tool aims to collect evidence of the different protection needs and opportunities in each context and help design key protection intervention throughout the journey.<sup>131</sup>

---

<sup>126</sup> Case No. 183/2008 of 22 December 2008, as cited in Human Rights Council, *Study of the OHCHR on Challenges and Best Practices in the Implementation of the International Framework for the Protection of the Rights of the Child in the Context of Migration*, A/HRC/15/29, 5 July 2010, para. 83.

<sup>127</sup> Regional Mixed Migration Secretariat (RMMS) and Save the Children, *Young and on the Move: children and youth in mixed migration flows within and from the Horn of Africa*, RMMS, September 2016, at p. 72, available at <http://www.regionalmms.org/images/ResearchInitiatives/Young%20and%20on%20the%20Move%20Sep%202016.pdf>.

<sup>128</sup> *Recommended principles to guide actions concerning children on the move and other children affected by migration*, June 2016, available at <http://destination-unknown.org/wp-content/uploads/160601-recommended-principle-EN-corr-BD.pdf> For background on the principles, see <http://destination-unknown.org/principles-to-guide-actions/>.

<sup>129</sup> Save the Children UK South Africa Programme, *Best Interest Determination for Children on the Move: a Toolkit for Decision Making*, September 2010. Available at <https://resourcecentre.savethechildren.net/sites/default/files/documents/3829.pdf>.

<sup>130</sup> The checklist is available at: [https://prod.emnbelgium.be/sites/default/files/publications/myria\\_migration-rapport\\_2015-lr.pdf](https://prod.emnbelgium.be/sites/default/files/publications/myria_migration-rapport_2015-lr.pdf).

<sup>131</sup> Daniela Reale, *Protecting and Supporting Children on the Move: Translating Principles into Practice*, in *Children on the Move*, International Organization for Migration (IOM), 2013, pp. 63-80.

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

UNHCR and UNICEF set up special support centres for children and families along the most frequently used migration routes in Europe. The “Blue Dot” child and family support hubs provide a safe space for children and their families, including services, recreational activities, protection and counselling in a single location. They play a key role in identifying unaccompanied and separated children and providing the protection they need.<sup>132</sup>

Near Gevgelija town, in the former Yugoslav Republic of Macedonia at the border with Greece, UNICEF has established a child-friendly space within the compounds of the migrant rest area established by UNHCR able to support 50 children at one time. This is a safe place for children to rest and play while families complete registration procedures. UNICEF’s mobile team is able to screen children, and to identify and refer those who are in need of specialized protection services. A mobile team from LaStrada, a local NGO, assists in the reunification of children with their families and provides psychosocial support and early childhood development services to children.<sup>133</sup>

In South Africa, unaccompanied migrant children are assigned a social worker, who can refer them to the Children’s Court to make an alternative care order.<sup>134</sup>

Resource: Child Protection Working Group, *Minimum Standards for child protection in humanitarian action*; UNHCR, *A Framework for the Protection of Children*.<sup>135</sup>

Outreach to unaccompanied migrant children increases their protection against violence, abuse, exploitation and ensure their access to information and essential services. Save the Children reported that in Greece and Italy drop-in centres were set up. They reach unaccompanied children where they gather or live to invite them to visit the centre for more detailed information, counselling and assistance, stressing the service does not require identification or registration with the authorities. The NGO has seen a high number of unaccompanied children registered at the drop-in centres as a result, which helps to reduce the disappearances of children from reception centres and other temporary accommodations.<sup>136</sup>

In March 2017, the Italian Parliament passed the Provision of Protection for Unaccompanied Foreigner Minors Law, which enhances support and protection for unaccompanied and separated children arriving in the country. Along with an absolute prohibition on refoulement, the law incorporates the establishment of a structured national reception system, with minimum standards in all reception facilities, education and health rights for all unaccompanied and separated children, the right to be heard in administrative and judicial proceedings, including in the absence of a guardian, and the right to legal assistance.<sup>137</sup>

<sup>132</sup> UNHCR, UNICEF launch Blue Dot hubs to boost protection for children and families on the move across Europe, 26 February 2016, <http://www.unhcr.org/en-us/news/press/2016/2/56d011e79/unhcr-unicef-launch-blue-dot-hubs-boost-protection-children-families-move.html>.

<sup>133</sup> UNICEF, UNICEF supports children fleeing violence and on the move in Europe, 25 August 2015, [http://www.unicef.org/media/media\\_82979.html](http://www.unicef.org/media/media_82979.html).

<sup>134</sup> General Assembly, Status of the Convention on the Rights of the Child: Report of the Secretary-General, A/71/413, 27 September 2016, para. 32, citing: National Department of Social Development, *Guidelines on Services for Separated and Unaccompanied Children outside Their Country of Origin in South Africa* (2009).

<sup>135</sup> Child Protection Working Group (CPWG), *Minimum Standards for child protection in humanitarian action*, 2012, available at [http://cpwg.net/minimum\\_standards-topics/cpms-full-version/](http://cpwg.net/minimum_standards-topics/cpms-full-version/); UNHCR, *A Framework for the Protection of Children*, 2012, available at <http://www.unhcr.org/50f6cf0b9.html>.

<sup>136</sup> Save the Children, *Submission for the Office of the High Commissioner for Human Rights (OHCHR) report on migrants in transit* (A/HRC/RES/29/2), November 2015, p. 4.

<sup>137</sup> Save the Children’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

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

The Mexican government, with the support of UNICEF Mexico, have developed the Protocol for Consular Attention for Unaccompanied Migrant Child and Adolescent as a tool for consular attention and protection of Mexican unaccompanied migrant children and adolescents. The Protocol sets out a number of steps to establish adequate conditions for the interview and helps to provide comprehensive attention, bearing in mind the situation of each child, in order to identify situations of risk and activate the inter-institutional protection chain.<sup>138</sup>

Ensamkommandes forbund is an organization created in Malmo, Sweden in 2013 by former unaccompanied minors to help them to integrate and find support networks. The organization started informally with a few former unaccompanied minors who wanted a space where they could discuss, take decisions, and make their message heard. The organization has created a friend-matching system, where any member can volunteer to be matched with others in the network. In addition, the organization provides support to unaccompanied minors to advocate for the rights of unaccompanied minors in the asylum process as well as in society in general.<sup>139</sup>

As a way to share good practice, the Belgian NGO Service droit des jeunes has created and administered with guardians, an Internet forum on unaccompanied and separated children to encourage networking among guardians, specialized lawyers, and NGOs. The forum is administered by NGOs as well as guardians.<sup>140</sup>

The percentage of registered children is above 90 per cent in all industrialized countries and among some countries in Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS) and Latin America and the Caribbean.<sup>141</sup>

The Netherlands provides for undocumented children's right to birth registration explicitly in law.<sup>142</sup>

In 2009, the Italian government adopted a change in the immigration law, introducing the requirement for a residence permit to be shown to register a birth. On the eve of the law entering into force, and as a result of advocacy efforts, the Ministry of Interior issued a circular clarifying that irregular migrants have the right to register their child at birth: it allows for the mother to be issued a temporary residence permit, valid for six months.<sup>143</sup>

<sup>138</sup> Mexico's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28). Other sources: <http://www.gfmd.org/pfp/ppd/2237>; General Directorate for the Protection of Mexicans Abroad and UNICEF, *Protocol for Consular Attention for unaccompanied child and adolescent migrants*, 2015, <http://proteccionconsular.sre.gob.mx/index.php/documentos/protocolonna>.

<sup>139</sup> Ensamkommandes forbund, Sweden, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/ensamkommandes-forbund-sweden/>.

<sup>140</sup> S. Alikhan and M. Floor, *Guardianship Provision Systems for Unaccompanied and Separated Children Seeking Asylum in Europe: Initial Mapping*, Bureau for Europe, UNHCR (2007), p. 20, <https://www.defenceforchildren.nl/images/42/658.pdf>.

<sup>141</sup> UNICEF, *Every Child's Birth Right: Inequities and trends in birth registration*, UNICEF 2013, available at [https://data.unicef.org/wp-content/uploads/2015/12/Birth\\_Registration\\_lores\\_final\\_24.pdf](https://data.unicef.org/wp-content/uploads/2015/12/Birth_Registration_lores_final_24.pdf).

<sup>142</sup> PICUM Submission to the Migrant Workers' Committee and Committee on the Rights of the Child Joint General Comment on the Human Rights of Children in the Context of International Migration, 29 February 2016, available at: [http://www.ohchr.org/Documents/HRBodies/CMW/JointGC\\_CRC\\_CMW/PICUM.pdf](http://www.ohchr.org/Documents/HRBodies/CMW/JointGC_CRC_CMW/PICUM.pdf).

<sup>143</sup> PICUM, *Rights of Accompanied Children in an Irregular Situation*, Paper prepared by PICUM, Platform for International Cooperation on Undocumented Migrants for UNICEF Brussels Office, November 2011 (draft version), p. 21, available at <http://fra.europa.eu/fraWebsite/frc2011/docs/rights-accompanied-children-irregular-situation-PICUM.pdf>.

---

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

---

In Thailand, the right to birth registration of children of irregular migrant parents is recognized in the Civil Registration Act (2008). In addition, the 2008 Nationality Act provides for the naturalization of specific categories of persons including children of irregular immigrants born in Thailand before 1992.<sup>144</sup>

---

*Principle 11: Women migrants**Protect the human rights of migrant women and girls*

---

At the 9th MERCOSUR's Meeting of Ministries and High-Level Authorities of Women's Affairs, a recommendation for mutual recognition, within the region, of protection measures for victims of gender based violence was adopted.<sup>145</sup>

A newly-constructed temporary shelter facility located in Serbia several kilometres from the Hungarian border meets all Sphere standards including private and secure family-only and women-only accommodation, common areas and separate WASH facilities for women and men.<sup>146</sup> In the former Yugoslav Republic of Macedonia, WASH facilities in Gevgelija are made of semi-permanent construction sanitation blocks with wheelchair accessible sex-segregated toilets, sex-segregated showers and hand washing facilities. The facilities are lit at night. There is a separate a mother/baby changing station in the sanitation block which can be accessed by requesting a key from the UNICEF Child Friendly Space nearby.<sup>147</sup>

The camps for Syrian refugees in Turkey have instituted, in partnership with World Food Programme (WFP), a programme enabling Syrian families to purchase pre-approved food items from participating vendors both within camps and in nearby towns and cities. These monthly food stipends are linked to each, individually registered adult in the camps, thereby affording women the same fixed and dedicated resources as their male counterparts.<sup>148</sup>

At Šentilj accommodation centre and Dobova reception centre in Slovenia, health care of pregnant women is available (a mobile medical team providing basic health care is there permanently, and pregnant women are referred to a local health centre if necessary), as well as a private area for women — breastfeeding area, children's corners, family corners, etc. (the Šentilj centre includes an area for family member reunification). Women have separate restrooms and showers and sanitary kits are available.<sup>149</sup>

---

<sup>144</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 61.

<sup>145</sup> Argentina's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law, (Human Rights Council Resolution A/HRC/35/L.28).

<sup>146</sup> UN-Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia*, UN-Women Europe and Central Asia Regional Office, January 2016, p. 24, though noting the closure of the Hungarian border means transit routes have redirected towards the Croatian border with only limited numbers of refugees and migrants located in this area (at note 34 on the same page). On Sphere standards, which aim to improve the quality of humanitarian assistance and the accountability of humanitarian actors, see <http://www.sphereproject.org>.

<sup>147</sup> *Ibid.*, p. 25.

<sup>148</sup> A. Jessen, *The Government of Turkey and Syrian Refugees: A Gender Assessment of Humanitarian Assistance Programming*, Georgetown Institute for Women, Peace and Security, 2013, p. 14.

<sup>149</sup> Slovenia's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 7 December 2016.



---

*Principle 11: Women migrants**Protect the human rights of migrant women and girls*

---

The Greek General Secretariat for Gender Equality (Ministry of Interior) has issued a guide for migrant women concerning their rights in the areas of work, health and social security. This also helps to sensitize officials and others to the need for equal treatment.<sup>150</sup>

Some States have conducted training programmes for government officials, the police, the judiciary, medical staff and other service providers to ensure gender-sensitive policy implementation, service provision and assistance, including access to justice, in the context of violence against women, human trafficking and protection of migrant workers. Belgium, for example, has conducted training to raise the awareness of prosecutors, police and medical personnel about domestic violence. Italy has undertaken awareness-raising campaigns and delivered human rights courses and training for judicial system personnel to prevent and eliminate violence against and stalking of women.<sup>151</sup> Certain States (Germany, Greece, Malta, Peru, the Philippines, Sweden and the United Arab Emirates) have reported on the production of guidelines, the provision of support and the conduct of training programmes for public officials (including the judiciary, police, immigration officials and civil servants) on the identification of migrants at risk and the prevention and protection of migrant women workers from exploitation and abuse.<sup>152</sup>

In order to mainstream a gender perspective into policies and programmes addressed to migrants, Mexico is undertaking a review and analysis of governmental programmes and actions to ensure that they do not contain requirements that impede migrant women and their families from accessing them. As part of this work, the Mexican government established the Technical Group for the Incorporation of the Gender Perspective in Care and Protection Policies for Migrant Women within the framework of the Consultative Council on Migration Policy of the SEGOB, ensuring the state is acting in line with its international and regional obligations.<sup>153</sup>

OHCHR released a short documentary film in 2015, “I Am Not Here”, in collaboration with Oscar-nominated director Ashvin Kumar, that follows the stories of three women in cities in Switzerland, the United States and Malaysia. It highlights the situation of undocumented women migrant domestic workers, millions of whom live in the shadows. In the framework of the Global Action Programme on Migrant Domestic Workers and their Families, OHCHR convened a global seminar in Bangkok on the human rights of migrant domestic workers in an irregular situation in September 2015 and launched its report “Behind closed doors: protecting and promoting the human rights of migrant domestic workers in an irregular situation”.<sup>154</sup>

---

*Principle 12: Right to health**Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants*

---

Through its Strategic Plan for Migration adopted in 2015, Portugal granted access to the National Health System to all residents, whether or not they have regular status.<sup>155</sup>

---

<sup>150</sup> For more information: <http://www.isotita.gr/en/> – source: <http://www.gfmd.org/pfp/ppd/333>.

<sup>151</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/68/178, 23 July 2013, para. 36.

<sup>152</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 46.

<sup>153</sup> Mexico’s submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations.

<sup>154</sup> <https://www.youtube.com/watch?v=v1GY6ItQVaM> and

[http://www.ohchr.org/Documents/Publications/Behind\\_closed\\_doors\\_HR\\_PUB\\_15\\_4\\_EN.pdf](http://www.ohchr.org/Documents/Publications/Behind_closed_doors_HR_PUB_15_4_EN.pdf).

<sup>155</sup> Address by His Excellency the President of the Portuguese Republic to the High Level Meeting on Large Movements of Refugees and Migrants, UN General Assembly, New York, 19 September 2016.

*Principle 12: Right to health**Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants*

In Argentina, Trinidad and Tobago and Uruguay, all migrants enjoy the same access to social services as nationals. Other States, including Belgium, France, Italy and the Netherlands, have implemented administrative systems to give irregular migrants access to a range of health service. The right to equal access of all children to health care is recognized in Greece, Portugal, Romania and Spain.<sup>156</sup>

Under a new law that entered into force on 1 July 2013, people who stay in Sweden without a permit must be offered the same subsidised health and medical care as adult asylum seekers, and such children must be offered the same care as resident and asylum-seeking children.<sup>157</sup>

In 2014, the Chilean Ministry of Health established a task force to develop a migrant-responsive health policy. Several actions have been undertaken to ensure the right to health of migrants, regardless of their status, including: a) the inclusion of irregular migrants as beneficiaries of the public health insurance FONASA (Decree of the Ministry of Health No. 67 of 29 May 2015); b) the development of trainings on migration, health, human rights, and cultural awareness addressed to health professionals, service providers, and officials in charge of health programmes; c) the implementation of a strategy to improve the collection of data and information on migrants' access to health; d) the organization of 8 dialogues, which are spaces of participation where migrants and nationals can express their concerns and proposals in relation to the health policy for migrants.<sup>158</sup>

In northern France, MSF teams provided medical consultations, nursing care, physiotherapy and psychological support at the camp known as 'the Jungle' in Calais, as well as in another camp in Grande-Synthe, near Dunkirk.<sup>159</sup>

In Greece, the health screening of migrants aims to provide, where necessary, appropriate therapeutic intervention and to ensure the referral of those in need of medical care to competent health structures.<sup>160</sup>

In Spain the Association Salud y Familia (Health and Family) is implementing several programmes to improve access to health services for undocumented migrants in the Barcelona region. The association combines policy advocacy with coordination with service providers and the government to guarantee undocumented persons' access to a health card. In collaboration with the public hospitals of Cataluña, they implement the "Mothers between two cultures" programme, aimed at designing and piloting intercultural education activities targeted toward migrant mothers with different cultural background who have children of three years or younger. The objective is to improve coverage and reduce unmet needs in the area of maternal and child health prevention and promotion, by strengthening knowledge, capacity and social support networks. The Association also offers a programme called "Assistance for At-Risk Maternity" which provides partial assistance for pregnant women to receive pre-natal care and psychosocial support.<sup>161</sup>

<sup>156</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 64.

<sup>157</sup> UN Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 : Sweden, 14 November 2014, A/HRC/WG.6/21/SWE/1, para. 74.

<sup>158</sup> Chile's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>159</sup> See <http://www.msf.org/en/topics/mediterranean-migration>, <http://www.msf.org/en/where-we-work/france>.

<sup>160</sup> European Union Agency for Fundamental Rights, Thematic focus: Healthcare, <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-healthcare>.

<sup>161</sup> For more information, visit <http://www.saludyfamilia.es/eng/home.htm> Source: UN-Women, *Gender on the Move: Working on the Migration-Development Nexus from a Gender Perspective: Training Manual*, 2013, p. 186, citing Eve Geddie, Platform for International Cooperation on Undocumented Migrants (PICUM), [picum.org/en](http://picum.org/en).

*Principle 12: Right to health**Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants*

In Sweden, health screening must be offered to all applicants for international protection by the county councils/regions in which they reside. The health screening is offered to identify any health problems relating to the individual, but also as a measure for infectious disease control. The health screening is voluntary and an interpreter can be engaged if necessary. The health screening aims to deliver a medical assessment of what kind of healthcare services should be offered to the person in question. The screening must include questions about the person's immunisation status, his or her exposure to infections, as well as other information that may be needed to discover any infectious diseases. The questions must be based on the epidemiological situation of the places where the person in question has stayed before arriving in Sweden. The health screening must also include a health dialogue (hälsosamtal) concerning the person's past and present physical and mental health. A part of this dialogue must concern the person's psychosocial situation or traumatic experiences. A physical examination and tests must be carried out as part of the health screening. They should be based on the findings from the questions asked earlier and the health dialogue.<sup>162</sup>

In Serbia, migrants living in reception and transit centres are provided with access to health care. Centres have rooms for the provision of healthcare (24 hour medical teams, gynaecologists and international organizations which provide information of health). In cooperation with civil society organisations and international organisations, migrants have access to psychosocial support. In cooperation with the local healthcare centres, conditions and resources have been ensured for the provision of health care, in order to adequately respond to the needs of migrants present in the territory.<sup>163</sup>

Article 32 of the Italian Constitution guarantees assistance to everyone under the national health-care system, based on the principles of universality and solidarity. This implies the compulsory enrolment in the National Health-Care Service (NHS) to all migrant children being on the national territory, regardless of their legal status.<sup>164</sup>

The Swiss Red Cross runs health centres for undocumented migrants in Bern and Zurich. According to Swiss Law, irregular migrants have the right to health insurance and therefore access to public health care. The centres provide health counselling, health insurance information, primary health care, psychiatric support, and preventive care. The centres also support irregular migrants to access specialists, hospitals or dentists.<sup>165</sup>

One of the priorities of the Swiss national programme "Migration and Health" is to enable migrants' access to health services, regardless of their migration status. The programme has set up an online platform to support health professionals' intercultural competences and a telephone interpretation service available in 50 languages.<sup>166</sup>

Doctors and volunteers from Gynécologie Sans Frontières carry out visits to refugee and migrant women in locations lacking basic living conditions and access to adequate health care, including reproductive health care.<sup>167</sup>

<sup>162</sup> European Union Agency for Fundamental Rights, Thematic focus: Healthcare, <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-healthcare>.

<sup>163</sup> Serbia's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 8 December 2016.

<sup>164</sup> Italy's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 23 November 2016.

<sup>165</sup> Health care for irregular migrants, Switzerland, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/health-care-for-irregular-migrants-switzerland/>.

<sup>166</sup> Switzerland's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>167</sup> Council of Europe Commissioner for Human Rights, Human rights of refugee and migrant women and girls need to be better protected, 7 March 2016, <https://www.coe.int/en/web/commissioner/-/human-rights-of-refugee-and-migrant-women-and-girls-need-to-be-better-protected>; Gynécologie Sans Frontières, <http://gynsf.org/en/reportage-de-gsf-dans-les-camps-de-la-honte/>.

*Principle 12: Right to health**Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants*

MSF operates at the arrival spots in Sicily, assisting people onshore by providing a Psychological First Aid. A mobile team composed of a psychologist and adequately trained cultural mediators is deployed within maximum 72 hours after the alert is given by the Italian Ministry of Interior. A number of essential services are then given to survivors, such as access to basic needs, orientation and information, referral of severe medical cases, emotional and psychological support. According to the landing location and with the agreement of national authorities, group and/or individual psychological sessions are provided.<sup>168</sup>

A programme called Ventanillas de Salud, Institute for Mexicans Abroad, was created to assist the Mexican immigrant population in the United States. Beginning in 2003 in California and spreading to all Mexican Consulates in the US, it provides health information, screenings and referral services to Mexican citizens living in the US, partnering with local non-profits to provide services. They also assist in helping those eligible to enrol in federal and state health programmes.<sup>169</sup>

The Swiss Red Cross has published a booklet with information on the right to health care, how to access health care and insurance, and recommendations for health practitioners on how to treat migrants who do not have health insurance.<sup>170</sup>

Malta has established a special unit within the Department of Primary Health to attend migrants. It is staffed with several ‘cultural mediators’ from migrant communities (Somali, Ethiopian, Eritrean, Congolese, and Nigerian). Half of these are women, who provide assistance during prenatal and gynaecological appointments at the “women’s clinic” in the health centres. In addition to direct assistance and cultural sensitivity training for staff, the Unit has also conducted community outreach on sexual health, how to navigate the health system and mental health. Materials have been published in many languages, including Somali, Tigrinya, French and Arabic.<sup>171</sup>

At the World Humanitarian Summit, the United Nations Population Fund (UNFPA) and 13 States — Australia, Central African Republic, Denmark, Finland, Iceland, Liberia, The Netherlands, Norway, The Philippines, Sweden, Switzerland, United Kingdom, and Uruguay — committed to intensify support, including financing for humanitarian action, to ensure universal access to sexual and reproductive health and reproductive rights in crisis settings.<sup>172</sup> This includes a rollout by 2017 of the Minimum Initial Services Package (MISP) within 48 hours of an emergency which will help prevent maternal and new born deaths; support those who have been targeted for sexual violence and subsequent trauma; sexually transmitted infections; unwanted pregnancies and unsafe abortions; and the possible spread of HIV.<sup>173</sup>

<sup>168</sup> MSF, *EU Migration Crisis: June update*, 17 June 2016, available at <http://www.msf.org/en/article/20160617-eu-migration-crisis-update-june-2016>.

<sup>169</sup> <http://ihcglobal.org/key-policy-topics/migration-and-its-implications/>, source: [http://www.ilo.org/dyn/migpractice/migmain.showPractice?p\\_lang=en&p\\_practice\\_id=34](http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=34).

<sup>170</sup> International Federation of Red Cross and Red Crescent Societies (IFRC), *One humanity: Safety and dignity for migrants*, IFRC September 2016, p. 16, <http://www.ifrc.org/Global/Documents/Secretariat/201609/One%20humanity-Safety%20and%20dignity%20for%20migrants-EN-locked.pdf>.

<sup>171</sup> For more information, visit: [https://ehealth.gov.mt/HealthPortal/health\\_institutions/primary\\_healthcare/migrant\\_healthunit.aspx](https://ehealth.gov.mt/HealthPortal/health_institutions/primary_healthcare/migrant_healthunit.aspx) Source: UN-Women, *Gender on the Move: Working on the Migration-Development Nexus from a Gender Perspective: Training Manual*, 2013, p. 186, citing Eve Geddie, Platform for International Cooperation on Undocumented Migrants (PICUM), [picum.org/](http://picum.org/).

<sup>172</sup> UNFPA, *Accelerating efforts to save lives, protect rights and dignity and leave no one behind*, 23 May 2016, <http://www.unfpa.org/press/accelerating-efforts-save-lives-protect-rights-and-dignity-and-leave-no-one-behind>.

<sup>173</sup> Inter-Agency Working Group on Reproductive Health in Crisis, *Reproductive Health-related Resources to Implement the Minimum Initial Service Package (MISP) at the Onset of an Emergency*, <http://iawg.net/resource/misp-implementation/>.

*Principle 12: Right to health**Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants*

The United Kingdom makes antiretroviral therapy available to all people living with HIV in the country at no cost regardless of their migration status.<sup>174</sup>

The South African National AIDS Council is establishing a multistakeholder advisory committee on mobile men and migrant populations to provide advice on a comprehensive and strong programme aimed at reducing the risk of HIV transmission and other infectious diseases among migrants.<sup>175</sup>

Migrant and Refugee Communities Forum (MRCF) is a bilingual mentoring support scheme in the UK, developed in 2007 in order to take advantage of the skills of unemployed refugee doctor who wanted to support non-English speaking migrants and refugees experiencing mental illness, using a US cultural brokerage model. Mentees not only reported feeling better, but started attending college, volunteering and some secured paid work. MRCF has opened the mentoring role to all individuals who want to support migrants and refugees. Training and structured support is provided for mentoring vulnerable migrants and refugees weekly for at least six months to help them break out of isolation and build confidence for a new start.<sup>176</sup>

Resources: The Inter-Agency Standing Committee Guidelines for mental health and psychosocial support in emergency settings;<sup>177</sup> the Multiagency guidance note on Mental Health and Psychosocial Support for Refugees, Asylum Seekers and Migrants on the Move in Europe.<sup>178</sup>

In the USA, non-profit organisations are explicitly exempt from any requirements to verify immigration status as a condition for providing services. Rather, any non-profit or government domestic violence service programme or shelter that denies assistance to migrants on the basis of their irregular situation is in violation of the Attorney General's order requiring that services "necessary for the protection of life and safety" be provided without regard to immigration status.<sup>179</sup>

Some US cities including Chicago have introduced municipal identification cards so that undocumented residents can more easily access public services such as healthcare and schools.<sup>180</sup>

The Committee for the Rights of Foreigners of the Council for Human Rights (an advisory body to the Czech Government) concluded after a meeting with health professionals in September 2010 that reporting migrants in an irregular situation to the police is unlawful and should not take place. As a follow-up, the Czech Medical Chamber clarified this issue in a newsletter, sent to every doctor.<sup>181</sup>

<sup>174</sup> Joint United Nations Programme on HIV/AIDS (UNAIDS), *The Gap Report 2014: Migrants*, UNAIDS 2014, p. 11, available at [http://www.unaids.org/sites/default/files/media\\_asset/04\\_Migrants.pdf](http://www.unaids.org/sites/default/files/media_asset/04_Migrants.pdf).

<sup>175</sup> *Ibid.*, p. 12.

<sup>176</sup> Yohannes Fassil and Angela Burnett, *Commissioning mental health services for vulnerable adult migrants: Guidance for commissioners*, Mind, with the support of the Faculty for Homeless, Inclusion Health/Pathway and NHS England, September 2015, pp. 27-28, [http://www.mind.org.uk/media/3168649/vulnerable-migrants\\_2015\\_mindweb.pdf](http://www.mind.org.uk/media/3168649/vulnerable-migrants_2015_mindweb.pdf).

<sup>177</sup> Available at [http://www.who.int/mental\\_health/emergencies/9781424334445/en/](http://www.who.int/mental_health/emergencies/9781424334445/en/).

<sup>178</sup> <http://www.euro.who.int/en/health-topics/health-determinants/migration-and-health/publications/2016/mental-health-and-psychosocial-support-for-refugees,-asylum-seekers-and-migrants-on-the-move-in-europe.-a-multi-agency-guidance-note-2015>.

<sup>179</sup> UNODC and IFRC, *Combating Violence against Migrants*, 2015, p. 53, available at [https://www.unodc.org/documents/justice-and-prison-reform/UNODC\\_Combating\\_Violence\\_against\\_Migrants.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Combating_Violence_against_Migrants.pdf).

<sup>180</sup> City of Chicago, Mayor Emanuel, Clerk Mendoza Announce Launch of Municipal ID Program, 12 October 2016, [https://www.cityofchicago.org/city/en/depts/mayor/press\\_room/press\\_releases/2016/october/Municipal-ID-Program.html](https://www.cityofchicago.org/city/en/depts/mayor/press_room/press_releases/2016/october/Municipal-ID-Program.html); Reuben Unrau, City Sets Aside \$1 Million for Municipal ID Program, 14 October 2016, <http://chicagotonight.wttw.com/2016/10/14/city-sets-aside-1-million-municipal-id-program>.

<sup>181</sup> European Agency for Fundamental Rights, *Fundamental rights of migrants in an Irregular Situation in the European Union*, 2011, p. 44.

---

*Principle 13: Adequate standard of living*  
*Safeguard the right of migrants to an adequate standard of living*

---

In March 2016, the European Commission against Racism and Intolerance (ECRI), part of the Council of Europe, has adopted the General Policy Recommendation No. 16 on safeguarding irregularly present migrants from discrimination.<sup>182</sup> The policy calls for the creation of firewalls to prevent state and private sector actors from denying human rights to migrants in an irregular situation by clearly prohibiting the sharing of the personal data of, or other information about, persons suspected of irregular presence or work, with the immigration authorities for purposes of immigration control and enforcement. The recommendations outlines ways to ensure that these rights are respected in the areas of education, health care, housing, social security and assistance, labour protection and justice. In relation to housing, in order to reduce the risk of exploitative or abusive situations, States are required to ensure that renting accommodation to irregular migrants is not criminalised by reason only of their immigration or migratory status.<sup>183</sup>

In 2005, the Municipality of Utrecht in the Netherlands supported the Dutch non-profit organisation STIL to set up a shelter for women and children in irregular status called Fanga Musow (“Strong Women”). This initiative offers undocumented women and children safe and stable accommodation, financial help, legal assistance, education and medical services. Now run as a project of Stichting Seguro, the shelter is partly funded by the Municipality (staff costs) and partly funded by numerous independent donors (other running costs and financial assistance to the women). Stichting Seguro also manages three shelters for undocumented men who are homeless in Utrecht, entirely funded by the Municipality. The Municipality also fully funds another shelter for undocumented women and children called Huize Agnes. Most of the undocumented women supported in this shelter arrived in the Netherlands as unaccompanied children and are now undocumented young women, some with children.<sup>184</sup>

In Greece a collective of refugee, student and solidarity activists have squatted City Plaza, a disused hotel that was closed for several years, since 22 April 2016. From 2nd May, City Plaza has hosted refugees who arrived prior to the EU/Turkey Deal of March 2016. It is not funded by the state or by NGOs, but is self-funded and self-run. City Plaza is collectively organised in its daily operation, with all those living at the site involved in decision making through various cross-represented assemblies. The people living on site participate in ensuring the collective living arrangements run smoothly, and there is a rota to cover all the cooking, cleaning, and additional activities required to ensure that everyone experiences comfortable living conditions.<sup>185</sup>

---

<sup>182</sup> The European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination, adopted on 16 March 2016, Council of Europe, Strasbourg, CRI(2016)16, available at [http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N16/REC-16-2016-016-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N16/REC-16-2016-016-ENG.pdf).

<sup>183</sup> Council of Europe’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>184</sup> Platform for International Cooperation on Undocumented Migrants, *Protecting undocumented children: Promising policies and practices from governments*, PICUM 2015, pp. 22-23.

<sup>185</sup> V. Squire, City Plaza: a way forward for the European ‘migration crisis’? *50.50 People on the Move*, 14 June 2016, available at <https://www.opendemocracy.net/vicki-squire/city-plaza-way-forward-for-european-migration-crisis>, <http://solidarity2refugees.gr/city-plaza/>.

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

In Spain the Ley de Extranjería (Foreigners' Law) of August 2000 denied migrants in an irregular situation the right to assemble, demonstrate, associate, join a union and go on strike. In January 2001, three major trade unions — the Union General de Trabajadores (UGT), Comisiones Obreras (CCOO) and the Confederación General de Trabajo (CGT) — made a public announcement stating that the law was unconstitutional, that they would not follow it, and that they would allow undocumented migrants to be members of their trade unions. Another Spanish union, the Sindicato de Obreros del Campo (SOC), has also gone against this law by making undocumented workers union members.<sup>186</sup>

Labour laws in Azerbaijan, Jamaica, and Peru also ensure that migrants have equal access to social protection, including contributory pension schemes and health care.<sup>187</sup>

The Swedish Trade Union Centre for Undocumented Migrants was created in 2008 by a number of Swedish trade union organisations, together with an organisation promoting the rights of undocumented migrants. The objective of the centre is to inform undocumented migrants about their rights in the labour market and represent them vis-à-vis their employers in any proceedings if they so wish.<sup>188</sup>

In Belgium, DUO for a JOB connects young migrants looking for jobs with experienced professional mentors in early retirement, who share their knowledge, experience and personal networks, to support migrants in their research for jobs.<sup>189</sup>

The Bulgarian Red Cross offers assistance to migrants in finding jobs via an employer referral programme, job seeking support and language lessons. Six volunteers from migrant communities, under the supervision of two Bulgarian Red Cross staff members in Sofia, assist migrants to register with the employment office, draft CVs, prepare for job interviews, and enrol in trainings. The Bulgarian Red Cross also works to encourage employers to hire migrants, and refers migrants to employers who have expressed willingness to consider them. In addition, the Bulgarian Red Cross offers language lessons to support the integration process. Migrants receive lessons from Bulgarian teachers several times a week. One lesson from the project has been that the involvement of potential employer companies in implementation of the programme, for example in trainings, encourages the participation and long-term commitment of both companies and employees.<sup>190</sup>

The ASEAN Qualifications Reference Framework (AQRF) is a system to relate existing qualification framework/training system between ASEAN member states. The AQRF has eight qualifications levels, ranging from basic skills to most advanced and specialised skills agreed among all 10 member states.<sup>191</sup>

<sup>186</sup> Platform for International Cooperation on Undocumented Migrants, *Ten Ways to Protect Undocumented Migrant Workers*, PICUM 2005 [They used it again in their submission to the half-day of discussion in 2014], p. 50.

<sup>187</sup> General Assembly, Violence against women migrant workers: Report of the Secretary-General, A/70/205, 27 July 2015, para. 34.

<sup>188</sup> European Union Agency for Fundamental Rights, *Severe labour exploitation: workers moving within or into the European Union: States' obligations and victims' rights*, 2015, p. 85. For more information, see: Solidar (2014), Undocumented migrants: equal access to labour and social rights?

<sup>189</sup> Intergenerational mentoring for immigrant youth, Belgium, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/intergenerational-mentoring-for-immigrant-youth-belgium/>.

<sup>190</sup> Employer referral and language lessons, Bulgaria, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/employer-referral-and-language-lessons-bulgaria/>.

<sup>191</sup> ILO, Recognition of skills and labour mobility in ASEAN, available at [http://www.ilo.org/dyn/migpractice/migmain.showPractice?p\\_lang=en&p\\_practice\\_id=98](http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=98) (PowerPoint).

---

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

---

ChileValora, the national System of Certification of Professional Skills, certifies the job skills of migrants that are included in the Catalogue of Job Skills, regardless of migrants' status and where the professional skills have been developed.<sup>192</sup>

The New Skills Agenda for Europe launched by the European Commission in June 2016 outlines a number of initiatives with the aim to assess, profile, recognise and upgrade skills of third country nationals, including the launch of a 'Skills Profile Tool for Third Country Nationals', which will assist services in receiving and host countries to identify and document skills, qualifications and experience of newly-arrived third country nationals.<sup>193</sup>

In Canada, recognition of credentials for regulated occupations is mainly a sub-national responsibility that is mostly delegated, in legislation, to professional regulatory bodies that have the primary responsibility for establishing occupational standards. The federal government plays a facilitative role to foster the development of consistent, national approaches. To this end, the Forum of Labour Market Ministers has developed the Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications. Since the launch of the Framework in 2009, government representatives of labour, immigration, and health departments have worked collaboratively towards the enhancement of foreign-qualification recognition processes across Canada.<sup>194</sup>

Since 2010, Canada's Labour Program has partnered with the Royal Canadian Mounted Police to raise awareness on human trafficking for forced labour among provincial labour inspectors and other labour officials, including providing information about possible signs and indicators of human trafficking and possible areas of cooperation between federal, provincial, territorial labour officials, law enforcement and other implicated parties. Since migrant workers are potentially at risk, raising awareness among front line labour inspectors may help mitigate the risk and identify potential victims.<sup>195</sup>

In Thailand, all workers, regardless of migrant status, have the right to claim compensation in case of accident or injury at work through the Workmen's Compensation Fund. All employers are obligated to pay in to the fund and may be liable under civil or criminal law if they do not.<sup>196</sup>

Sri Lanka requires all recruitment agents and employers recruiting Sri Lankans nationals for employment abroad to be registered and licensed by the government. They must be registered with the relevant Diplomatic Mission, which approves jobs requests and placements.<sup>197</sup>

---

<sup>192</sup> Chile's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>193</sup> European Union's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28). Information is available at <http://ec.europa.eu/social/main.jsp?catId=1223>.

<sup>194</sup> Canada's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>195</sup> Canada's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>196</sup> R. Napier-Moore; K. Sheill, *High rise, low pay: experiences of migrant women in the Thai construction sector*, International Labour Organization, Bangkok: ILO, 2016, p. 45.

<sup>197</sup> Sri Lanka's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).



*Principle 15: Right to education**Protect the right of migrants to education, including primary and secondary education as well as higher education and vocational and language training*

The fundamental right of all children to education, regardless of their legal status, is recognized in Argentina, Belgium, Chile, Italy, Spain, Thailand, the Netherlands and Uruguay. In France, there is a ministerial circular to the same effect.<sup>198</sup>

Italy guarantees to migrant children the right to education, regardless of their status, on the same terms as Italian children. The 1998 Immigration Act integrates the right to education in national legislation. It provides for the compulsory education of migrant children, the teaching of Italian, and the promotion of the culture and language of the countries of origin of migrant children.<sup>199</sup>

Chile guarantees access to public education to migrant children and adolescents, regardless of their migration status (Ministry of Education, Ordinary Communication No. 07/1008 of 2005). In 2016, a new procedure was established to facilitate the enrolment of irregular migrant children.<sup>200</sup>

In Serbia, school age migrants in transit have access to informal education, provided by the competent institution in cooperation with civil society organisations.<sup>201</sup>

Through its Strategic Plan for Migration adopted in 2015, Portugal promotes access to education to the children of all migrants, whether or not they have regular status.<sup>202</sup>

The US Supreme Court ruled in the landmark Plyler v. Doe case in 1982, that it was a violation of the Constitution to deny irregular migrant children free compulsory education under the same conditions as citizens and regular migrant children. The legal ruling has been complemented by guidelines, for instance those produced by the National School Boards Association and the National Education Association, regarding legal issues and specific schools. A number of States have fully implemented this ruling to include access to other school-based services, such as free and reduced-price meals and educational assistance for children with learning disabilities.<sup>203</sup>

In 2005, Thailand's Ministry of Education instructed school directors to enrol all children, including irregular migrant children, so they could access free basic education.<sup>204</sup>

<sup>198</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, para. 65.

<sup>199</sup> OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*, HR/PUB/14/1, 2014, p. 88 — citing PICUM, *Undocumented Children in Europe*, pp. 16-17.

<sup>200</sup> Chile's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>201</sup> Serbia's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 8 December 2016.

<sup>202</sup> Address by His Excellency the President of the Portuguese Republic to the High Level Meeting on Large Movements of Refugees and Migrants, UN General Assembly, New York, 19 September 2016.

<sup>203</sup> OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*, HR/PUB/14/1, 2014, p. 89.

<sup>204</sup> Save the Children's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

*Principle 15: Right to education**Protect the right of migrants to education, including primary and secondary education as well as higher education and vocational and language training*

The Council of Europe's project Linguistic Integration of Adult Migrants (LIAM) provides assistance to member states in developing coherent and effective policies on linguistic support to adult migrants. In this area, the Council of Europe has also developed standard setting instruments, policy guidelines<sup>205</sup> and tools<sup>206</sup> for policy makers, language course providers, teachers and learners.<sup>207</sup>

In Belgium, head teachers are not required to inform the police of the administrative status of children and their parents, and undocumented migrants will not be arrested in the vicinity of the school. This guarantee was extended to the entire Belgian territory through a circular letter signed by the Ministry of Interior on 29 April 2003, recalling that police services cannot enter schools in order to carry out deportations.<sup>208</sup> In the Netherlands, legislation explicitly prevents schools from sharing personal information with others (for example, immigration authorities) and from refusing registration because of immigration status.<sup>209</sup>

Portugal provides for enhanced protection of undocumented children and the children of irregular migrants. Their details are confidential and may not be shared with immigration authorities. This practice prevents situations in which children do not attend school or receive proper health care for fear of their status being exposed.<sup>210</sup>

In 1997, Germany set up a national database of leaving certificates, exams and degrees and information about the authorities responsible for recognition in specific sectors and regions. Since 2012, there has been a publicly accessible version online. Detailed information on foreign educational institutions, their courses and certificates is available for institutions that have to assess these for recognition (the database covers 180 countries, approximately 25,000 institutions, 22,000 university degrees and 25,000 evaluations on individual cases; professional qualifications — 5,800 entries — and secondary school leaving certificates — 1,500 entries — complement the academic sector). One consequence of standardizing this recognition procedure has been a significant reduction in the administrative budget for this work.<sup>211</sup>

<sup>205</sup> <http://www.coe.int/en/web/lang-migrants/guiding-principles>; <http://www.coe.int/en/web/lang-migrants/language-policies-for-adult-migrants>.

<sup>206</sup> <https://rm.coe.int/16802fc1cd>; <https://rm.coe.int/16802fc1d4>; <http://www.coe.int/en/web/lang-migrants/instruments#For%20learners%20and%20teachers>.

<sup>207</sup> Council of Europe's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law. Materials are available on the LIAM website, at: [http://www.coe.int/en/web/lang-migrants/home?p\\_p\\_id=56\\_INSTANCE\\_cS30PriWme6S&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_count=1&\\_56\\_INSTANCE\\_cS30PriWme6S\\_languageId=it\\_IT](http://www.coe.int/en/web/lang-migrants/home?p_p_id=56_INSTANCE_cS30PriWme6S&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&_56_INSTANCE_cS30PriWme6S_languageId=it_IT).

<sup>208</sup> OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*, HR/PUB/14/1, 2014, p. 88 — citing PICUM, *Undocumented Children in Europe*, pp. 16-17.

<sup>209</sup> UNICEF, *Examples of good practices in the implementation of the international framework for the protection of the rights of the child in the context of migration*, draft paper, 26 May 2010, p. 14, available from [www.ohchr.org/Documents/Issues/MHR/Consultation2010/2.Good\\_practices\\_Migration\\_children\\_UNICEF.pdf](http://www.ohchr.org/Documents/Issues/MHR/Consultation2010/2.Good_practices_Migration_children_UNICEF.pdf) — citing PICUM, *Undocumented Children in Europe*; see also European Union Agency for Fundamental Rights (FRA), *Apprehension of migrants in an irregular situation*, 2013, principles 4 and 5.

<sup>210</sup> Address by His Excellency the President of the Portuguese Republic to the High Level Meeting on Large Movements of Refugees and Migrants, UN General Assembly, New York, 19 September 2016.

<sup>211</sup> A. Schuster, M. Vincenza Desiderio and G. Urso (eds) *Recognition of Qualifications and Competences of Migrants*, 2013, IOM, p. 71. The database is accessible online (Informationssystem zur Anerkennung ausländischer Bildungsabschlüsse, ANABIN): [www.anabin.de](http://www.anabin.de).

---

*Principle 15: Right to education**Protect the right of migrants to education, including primary and secondary education as well as higher education and vocational and language training*

---

Ecuador's Human Mobility Law, passed in January 2017, guarantees to migrants and returnees the right to the recognition of degrees and studies carried out abroad.<sup>212</sup>

The Platform for International Cooperation on Undocumented Migrants (PICUM) have produced a teachers' guide to accompany their web documentary "Undocumented" to educate students at all levels about the daily lives of undocumented migrants, drawing on stories of undocumented migrants, migrants' rights defenders, professionals and public authorities. The tool also addresses related issues such as human rights, migration, social studies, civic education, and current affairs.<sup>213</sup>

In Slovenia, UNICEF trained teachers on working with migrant children and elaborated a school activities model at the Livada Primary School as a good practice. They provided school teaching staff with dictionaries to facilitate communication with children (Arabic, English, Slovenian).<sup>214</sup>

In Ecuador, UNHCR and the Nation Human Rights Institution (Defensoria del Pueblo) promoted the development of a methodology of inclusive education addressed to teachers and educators working in urban and rural areas of Ecuador.<sup>215</sup>

In Switzerland, school curricula include learning objectives related to non-discrimination and respect for diversity.<sup>216</sup>

The Hague court found that Dutch national law (Aliens Employment Act or WAV) is in violation of Article 2 of the 1st Protocol of the ECHR by requiring students to have a residence permit in order to carry out an internship which is a compulsory part of an educational programme.<sup>217</sup>

A special programme called "Mama Learns Greek" — Learning of the Greek Language Tailor-made for Migrant Mothers helps migrant mothers to learn the language and improve their ability to help their children in school. This contributes to gender equality, the integration of mothers and children, cohesion of the family and human development of mothers and children. This programme is also part of the Annual Programme of the European Integration Fund, a programme that promotes linguistic skills and women's capacity to assist their children in their schooling and life.<sup>218</sup>

---

<sup>212</sup> Ecuador, Ley Organica de Movilidad Humana, Article 28 and 50, available at <http://www.asambleanacional.gob.ec/es/multimedios-legislativos/38946-ley-organica-de-movilidad-humana>.

<sup>213</sup> The Platform for International Cooperation on Undocumented Migrants (PICUM), *How to use UNDOCUMENTARY in the Classroom: A teacher's guide*, available at [http://picum.org/picum.org/uploads/publication/Educational%20guide\\_FINAL\\_EN.pdf](http://picum.org/picum.org/uploads/publication/Educational%20guide_FINAL_EN.pdf).

<sup>214</sup> Slovenia's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 7 December 2016.

<sup>215</sup> <http://www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2016/10267.pdf>.

<sup>216</sup> Switzerland's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>217</sup> UNICEF, Examples of positive developments for the rights of children in the context of international migration — 2012 Day of General Discussion of the Committee on the Rights of the Child: The Rights of All Children in the Context of International Migration, available from [http://www.unicef.org/socialpolicy/files/Examples\\_of\\_positive\\_developments\\_for\\_the\\_rights\\_of\\_children\\_in\\_the\\_context\\_of\\_international\\_migration.pdf](http://www.unicef.org/socialpolicy/files/Examples_of_positive_developments_for_the_rights_of_children_in_the_context_of_international_migration.pdf).

<sup>218</sup> Source: <http://www.gfmd.org/pfp/ppd/331>.

---

*Principle 16: Right to information*  
*Uphold migrants' right to information*

---

The training programmes of the Chilean National Service for Training and Work (Servicio Nacional de Capacitación y Empleo SENCE) are open to both regular and irregular migrants.<sup>219</sup>

Traditional information distribution strategies, including pamphlets, posters and information sessions may not be effective in the context of large and/or mixed movements, given that individuals cannot carry non-essential material with them and time spent in the reception and transit centres is limited. In the former Yugoslav Republic of Macedonia, the NGO La Strada has been handing out laminated maps to women and girls — which they will likely keep given the importance of maps to their journey — on the back of which contacts of protection services in transit and destination countries are listed.<sup>220</sup>

On arrival in Slovenia, every migrant was given a pamphlet with basic information on the country, registration procedure, available services and information on accommodation, care and health services as well as the names of organisations providing these services (Police, Caritas, Administration for Civil Protection and Disaster Relief, Red Cross, Slovenska filantropija), including the information of the Red Cross being responsible for tracing family members and reunification of families when family members get lost on route. The pamphlet was also available in Arabic.<sup>221</sup>

PROGE (Die Produktionsgewerkschaft) in Austria is a union which provides information about rights such as the minimum wage, working hours and holidays, for example to seasonal harvest workers.<sup>222</sup>

The New Zealand Government provides trusted settlement information to migrants on a variety of topics, including New Zealand's employment law, finding employment, cost of living, housing, healthcare, education and schooling and opportunities to participate in the community.<sup>223</sup>

In Serbia, several NGOs are developing phone apps for migrants and asylum seekers with a view to provide updated information on border closures, transport options, and available services along the transit route. One organization wanted to include a mapping of gender-based violence health services in countries along the route.<sup>224</sup>

In the Balkans, governments have discussed using loudspeakers with recorded messages in multiple languages playing in transit centres to ensure that information is properly shared. This would improve access to information especially for women and girls who may have lower literacy rates.<sup>225</sup>

---

<sup>219</sup> Chile's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights (Human Rights Council Resolution A/HRC/35/L.28).

<sup>220</sup> UN-Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia*, UN-Women Europe and Central Asia Regional Office, January 2016, p. 30.

<sup>221</sup> Slovenia's submission to OHCHR on the GMG Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, 7 December 2016.

<sup>222</sup> European Union Agency for Fundamental Rights (FRA), *Severe labour exploitation: workers moving within or into the European Union — States' obligations and victims' rights*, FRA 2015, p. 55.

<sup>223</sup> New Zealand's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>224</sup> UN-Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia*, UN-Women Europe and Central Asia Regional Office, January 2016, p. 34.

<sup>225</sup> Women's Refugee Commission, *No Safety for Refugee Women on the European Route: Report from the Balkans*, 2016, p. 8.

In 2015, Turkey launched a new communication center for foreigners (Yimer Line). The centre acts as a 'helpline' and provides information in Turkish, English, Arabic and Russian. This calling center also serves as hotline for victims of human trafficking and provides translation services for foreigners who need to contact law enforcement agencies.<sup>226</sup>

Welcome to Europe (w2eu.info) provides independent information, including contacts and counselling, for refugees and migrants coming to Europe. The information is accessible by country or issue.<sup>227</sup>

The Netherlands Red Cross launched the Refugee Buddy app in November 2015 to provide newly arrived migrants with information about their new area of residence. The app was developed in close consultation with migrants who had said that lack of any information on where they were or what to do was a key challenge. The app provides information on: the asylum procedure; key facilities nearby (e.g., pharmacies, supermarkets, churches and mosques); relevant news; traffic and transportation; medical facilities; and Dutch culture. The app can be downloaded in Arabic or English and provides translations. The existing Red Cross Red Crescent First Aid app has also been translated and integrated into the Buddy app. The app had been downloaded 4000 to 5000 times in the first six months of release.<sup>228</sup>

NetHope, is a public & private partnership of aid groups and technology companies providing low-bandwidth Wi-fi hotspots and charging facilities to migrants along the Balkan migration route and in camps in Greece. Given that some services, such as booking an interview with the Greek Asylum Office, are only available online, the internet is essential for migrants to be able to access services and secure their rights such as making informed decisions about their migration and connect with family members.<sup>229</sup>

Red Cross National societies use the opportunity provided by setting up charging stations where migrants can charge their smartphones to share Red Cross Red Crescent information material and audio. In camps in Rwanda, the ICRC is implementing the 'Mobile Solar Kiosk' project to help migrants in camps charge their phones. Many migrants in camps own phones but cannot use them due to lack of access to the Rwandan mobile network, no airtime/credit, and no access to electricity to charge their phones. A solar kiosk that allows 20 phones to be charged at any given time has been set up in the camp; the kiosk charges 60 phones per day on average.<sup>230</sup>

<sup>226</sup> Turkey's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>227</sup> At <http://www.w2eu.info>.

<sup>228</sup> Refugee Buddy app, Netherlands, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/refugee-buddy-app-netherlands/>.

<sup>229</sup> <http://nethope.org>; see also, Madeline Kane, Refugees in Greece need internet so badly that they'll stop a riot to let the wifi guys work, *Quartz*, 20 June 2016, <http://qz.com/711529/refugees-in-greece-need-internet-so-badly-that-theyll-stop-a-riot-to-let-the-wifi-guys-work/>; Reuters, Internet in Greek migrant camps as important as food and water, aid groups say, *Humanosphere*, 22 July 2016, <http://www.humanosphere.org/human-rights/2016/07/internet-in-greek-migrant-camps-as-important-as-food-and-water-aid-groups-say/>; see also: Charging and Wi-Fi stations for migrants along trails, Europe, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/charging-and-wi-fi-stations-for-migrants-along-trails-europe/>.

<sup>230</sup> Charging and Wi-Fi stations for migrants along trails, Europe, on the *IFRC Smart Practices database*, <http://media.ifrc.org/global-review-on-migration/smart-practice/charging-and-wi-fi-stations-for-migrants-along-trails-europe/>; see also, Aviva Rutkin, Tech helps refugees make journey — and survive when they arrive, *New Scientist*, 7 September 2015, <https://www.newscientist.com/article/dn28137-tech-helps-refugees-make-journey-and-survive-when-they-arrive/>.

---

*Principle 16: Right to information*  
*Uphold migrants' right to information*

---

Resources on data security and migrants' privacy: a) The Electronic Frontier Foundation (EFF) advices on digital security and provides resources on its website, including on data protection;<sup>231</sup> b) The Responsible Data Forum, a collaboration between Amnesty International, Aspiration, The Engine Room, Greenhost, HURIDOCS, Oxfam, Leiden University's Peace Informatics Lab, School of Data and Ushahidi, has published a handbook on responsible data usage.<sup>232</sup>

In March 2016 the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media recommended the member States to: a) instruct immigration and other law enforcement agencies to respect the right of members of the media to report on issues of public interest and to ensure their safety; b) facilitate journalists' access to areas and locations relevant from a migration perspective, such as border areas, camps and other facilities; c) allow journalists to interview or have contact with migrants in order to report personal stories and current living conditions; d) respect and promote media self-regulatory mechanisms in order to avoid the stereotyping of migrants.<sup>233</sup>

Greece carried out workshops to sensitize journalists to address phenomena of racism and xenophobia.<sup>234</sup>

Resources: Freelance Journalist Safety Principles,<sup>235</sup> the Ethical Journalism Network's five-point guide for reporting on migration.<sup>236</sup>

---

*Principle 17: Monitoring and accountability*  
*Guarantee monitoring and accountability in all responses to migration, including in large and/or mixed movements of migrants*

---

UN-Women's migration programme "Promoting and Protecting Women Migrant Workers' Labour and Human Rights: Engaging with International, National Human Rights Mechanism to Enhance Accountability" was piloted in Mexico, Moldova and the Philippines and had global reach through high-level policy and normative work (February 2014-January 2017). Activities were aimed at promoting the rights and protection of Women Migrant Workers against exploitation and abuse at all stages of migration by 1) strengthening strategic international human rights institutions, parliaments, governments to ensure accountability to WMWs at all stages; and 2) strengthening WMWs organizations to effectively engage with these mechanisms and governments to ensure greater accountability at all stages of migration.<sup>237</sup>

---

<sup>231</sup> Information at <https://www.eff.org>.

<sup>232</sup> Information at <https://responsibledata.io>.

<sup>233</sup> OSCE Representative issues recommendations on rights and safety of members of the media reporting on refugees, 4 March 2016, <http://www.osce.org/node/225911>; Communiqué No.3/2016: Communique by the OSCE Representative on Freedom of the Media on the rights and safety of journalists reporting on refugees, <http://www.osce.org/fom/225896?download=true>.

<sup>234</sup> Greece's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>235</sup> *Freelance Journalist Safety Principles*, 12 February 2015, <http://dartcenter.org/content/global-safety-principles-and-practices> For a more comprehensive listing of texts, declarations, decisions, resolutions and conventions related to human rights and the safety of journalists, see <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/safety-of-journalists/basic-texts/>.

<sup>236</sup> EJM Chair presents new guidelines on migration coverage in Lampedusa, *Ethical Journalism Network*, 1 October 2016, <http://ethicaljournalismnetwork.org/ejm-chair-speaks-prix-italia-conference-migration-lampedusa>; EJM, Five-point guide for migration reporting, <http://ethicaljournalismnetwork.org/resources/infographics/ethical-guidelines-on-migration-reporting>.

<sup>237</sup> UN-Women submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

---

*Principle 17: Monitoring and accountability**Guarantee monitoring and accountability in all responses to migration, including in large and/or mixed movements of migrants*

---

Within the European Network of National Human Rights Institutions, many of the members have done significant work on combatting negative stereotyping and hate speech, through their monitoring and reporting work. For instance, the French Commission (CNCDDH) in its annual report on combatting racism, anti-Semitism and xenophobia is monitoring and analysing the actions of the public authorities and formulates recommendations to help them fight against this phenomena, but also through complaints handling and legal action. The latter is the case of the Belgian NHRI, Interfederal Centre for Equal Opportunities (UNIA), which handled an increased number of complaints during the past year. Several NHRIs are also working on projects to identify and prevent hate speech on the internet.<sup>238</sup>

OHCHR has carried out monitoring of the human rights of migrants at the request of the Human Rights Council, as well as under the mandate of the High Commissioner for Human Rights. In a report on the situation of migrants and asylum seekers in the North African region, OHCHR highlighted the specific human rights concerns of migrants and provided recommendations designed to protect their human rights. OHCHR and the United Nations Support Mission in Libya (UNSMIL) released a joint report documenting the human rights abuses against migrants in Libya and providing recommendations to the authorities in Libya, as well as to countries of origin and destination, to ensure adequate human rights protections for migrants.<sup>239</sup>

---

*Principle 18: Human rights defenders**Respect and support the activities of human rights defenders and others working to rescue and provide assistance to migrants*

---

The Constitution of Montenegro recognizes that forming an association is a right that requires no form of approval; it is applicable to children from the age of 14 years. In Finland, online notification is sufficient to register a civil society organization and unregistered organizations operate freely, in line with recommendations of United Nations experts.<sup>240</sup>

In Mexico and Côte d'Ivoire, laws have been enacted that specifically protect human rights defenders, drawing on the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.<sup>241</sup>

---

<sup>238</sup> European Network of National Human Rights Institutions, Ombudsman Institutions address migration challenges during international conference, 8 September 2016, available at <http://ennhri.org/Ombudsman-Institutions-address-migration-challenges-during-international>.

<sup>239</sup> Human Rights Council, The situation of migrants and asylum-seekers fleeing recent events in North Africa: Report of the High Commissioner for Human Rights, 1 September 2011, A/HRC/18/54; Detained and Dehumanised: Report on human rights abuses against migrants in Libya: Report of the United Nations Support Mission in Libya and the High Commissioner for Human Rights, 13 December 2016.

<sup>240</sup> Human Rights Council, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, A/HRC/32/20, 11 April 2016, para. 16, citing Permanent Mission of Montenegro to the United Nations Office at Geneva, and Permanent Mission of Finland to the United Nations Office at Geneva. See also reports of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27 and A/HRC/23/39).

<sup>241</sup> Human Rights Council, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned: Report of the United Nations High Commissioner for Human Rights, A/HRC/32/20, 11 April 2016, para. 18.

---

*Principle 18: Human rights defenders**Respect and support the activities of human rights defenders and others working to rescue and provide assistance to migrants*

---

The Workbook on Security by Front Line Defenders is inspired by human rights defenders from over 50 countries who have attended Front Line Defenders' workshops on security and protection. The Workbook is designed to raise awareness on security issues and mitigation of threats. The workbook illustrates to human rights defenders how to assess the security situation, develop risk and vulnerability reduction strategies, and produce a security plan for individuals and for organisations.<sup>242</sup>

The UN has adopted the Guidelines against Intimidation or Reprisals ("San José Guidelines") in response to intimidation and reprisals against those who provide information or contribute to the treaty bodies' work to promote and protect human rights. The Guidelines underline States' responsibility to avoid acts constituting such intimidation or reprisals and mobilise treaty bodies' means to assist and protect individuals and groups who have been targeted for seeking to cooperate or cooperating with them.<sup>243</sup> Specifically, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has adopted the San José Guidelines and appointed one of its members as Rapporteur on reprisals.<sup>244</sup> One of the Assistant Secretaries General for Human Rights has also been mandated to lead UN work on ending intimidation and reprisals against human rights defenders.<sup>245</sup>

Several resources can support human rights defenders in improving their digital security, including: a) Tactical Tech offers digital security workshops and has an archive on digital security and human rights;<sup>246</sup> b) Security in-a-Box is a guide to digital security for activists and human rights defenders throughout the world. It was developed by Front Line Defenders and Tactical Technology Collective, with the support of a global network of activists, trainers and digital security experts;<sup>247</sup> c) Ononymous.org provides a collection of digital security training materials — videos, toolkits, guides — from contributors such as Tactical Tech, Front Line Defenders, EFF, Open Data City, The Tor Project, The Centre for Investigative Journalism and Access Now.<sup>248</sup>

Whistleblower protection has been recognised by all major international instruments concerning corruption.<sup>249</sup>

---

<sup>242</sup> Front Line Defenders, *Workbook on Security: Practical Steps for Human Rights Defenders at Risk*, 2011, <https://www.frontlinedefenders.org/en/resource-publication/workbook-security-practical-steps-human-rights-defenders-risk>.

<sup>243</sup> International Human Rights Instruments, Twenty-seventh meeting of chairpersons of the human rights treaty bodies, *Guidelines against Intimidation or Reprisals ("San José Guidelines")*, HRI/MC/2015/6, 30 July 2015; see also International Service for Human Rights, UN human rights monitoring bodies adopt policy to combat reprisals, 1 July 2015, <http://www.ishr.ch/news/un-human-rights-monitoring-bodies-adopt-policy-combat-reprisals>.

<sup>244</sup> Committee on the Rights of Migrant Workers closes twenty-fourth session: Round up, 22 April 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19866&LangID=E>.

<sup>245</sup> International Justice Resource Center, UN mandate created to reduce reprisals against human rights defenders, 13 October 2016, <http://www.ijrcenter.org/2016/10/13/un-mandate-created-to-reduce-reprisals-against-human-rights-defenders/>.

<sup>246</sup> For the Digital Security in Human Rights project see: <https://secresearch.tacticaltech.org>, for trainings see: <https://tacticaltech.org/projects/trainings>.

<sup>247</sup> At <https://securityinabox.org/en>.

<sup>248</sup> At <https://onymous.org>.

<sup>249</sup> Organisation for Economic Co-operation and Development, *Whistleblower protection: encouraging reporting*, OECD, July 2012, <http://www.oecd.org/cleangovbiz/toolkit/50042935.pdf>.



*Principle 19: Data*

*Improve the collection of disaggregated data on the human rights situation of migrants, while ensuring the right to privacy and protection of personal data*

Resources: Transparency International have published International Principles for Whistleblower Legislation to ensure that policies provide accessible disclosure channels for whistleblowers, meaningfully protect whistleblowers from all forms of retaliation, and ensure that the information they disclose can be used to advance needed reforms.<sup>250</sup>

In 2014, the Regional Mixed Migration Secretariat (RMMS) created the Mixed Migration Monitoring Mechanism Initiative (4Mi), as an attempt to address the need for better data. The 4Mi is an innovative, low-cost approach to collect and analyse data on mixed migration flows from the Horn of Africa. Through a network of thirty locally-recruited monitors in strategic migration hubs in Northern, Eastern, and Southern Africa, Southern and Eastern Europe, and the Middle East, the 4Mi project tracks Eritrean, Ethiopian, Djiboutian and Somali people on the move through interviews and questionnaires, generating data disaggregated by gender, country of origin, and their experience of human rights abuses.<sup>251</sup> The RMMS compiles monthly summaries of mixed migration movements, data and trends in the sub-region, as well descriptions of political events and policy changes affecting mixed migration. It publishes monthly narrative summaries, maps, and quarterly and annual trend analysis.<sup>252</sup>

UNHCR publishes data on the numbers of migrants travelling along different routes, including those dying or going missing en route.<sup>253</sup> IOM also maps this data.<sup>254</sup> IOM has published two reports in the Fatal Journeys series, on tracking, identification and the tracing of dead and missing migrants.<sup>255</sup>

The Human Costs of Border Control project published the Deaths at the Borders Database for the Southern EU, an open-source evidence base of individualised, but anonymised, information about the 3188 people who died between 1990 and 2013 at the borders, sourced from the death management systems of Spain, Gibraltar, Italy, Malta and Greece. It is the first database on border deaths in the EU based on official sources as opposed to the news media.<sup>256</sup>

In response to a longstanding demand to develop and deploy appropriate statistical indicators in furthering the cause of human rights, OHCHR developed a framework of human rights indicators that is now being applied by national governments, national human rights institutions and non-governmental organisations worldwide. Human rights indicators are essential in the implementation of human rights standards and commitments, to

<sup>250</sup> Transparency International, *International Principles for Whistleblower Legislation*, 2013, [https://www.transparency.org/whatwedo/publication/international\\_principles\\_for\\_whistleblower\\_legislation](https://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation).

<sup>251</sup> The data from the pilot phase of project (to mid-2016) is available at <http://4mi.regionalmms.org/4mi.html>.

<sup>252</sup> At <http://www.regionalmms.org/index.php/data-trends>.

<sup>253</sup> For the Mediterranean data see, UNHCR, *Refugees/Migrants Emergency Response — Mediterranean*, [http://data.unhcr.org/mediterranean/regional.php#\\_ga=1.100460825.604141103.1437637608](http://data.unhcr.org/mediterranean/regional.php#_ga=1.100460825.604141103.1437637608).

<sup>254</sup> For the European data see, IOM, *Migration flows — Europe*, <http://migration.iom.int/europe/>.

<sup>255</sup> T. Brian and F. Laczko (eds.), *Fatal Journeys: Tracking Lives Lost during Migration*, IOM 2014, available at [https://publications.iom.int/system/files/pdf/fataljourneys\\_countingtheuncounted.pdf](https://publications.iom.int/system/files/pdf/fataljourneys_countingtheuncounted.pdf); T. Brian and F. Laczko (eds.), *Fatal Journeys, Volume 2: The identification and tracing of dead and missing migrants*, IOM 2016, available at [https://publications.iom.int/system/files/fataljourneys\\_vol2.pdf](https://publications.iom.int/system/files/fataljourneys_vol2.pdf).

<sup>256</sup> The *Deaths at the Borders Database for the Southern EU* is available at <http://www.borderdeaths.org>. On the creation of the database, see: Tamara Last, Giorgia Mirto, Orçun Ulusoy, Ignacio Urquijo, Joke Harte, Nefeli Bami, Marta Pérez Pérez, Flor Macias Delgado, Amélie Tapella, Alexandra Michalaki, Eirini Michalitsi, Efi Latsoudi, Naya Tselepi, Marios Chatziprokopiou & Thomas Spijkerboer (2017): Deaths at the borders database: evidence of deceased migrants' bodies found along the southern external borders of the European Union, *Journal of Ethnic and Migration Studies*, DOI: 10.1080/1369183X.2016.1276825.

---

*Principle 19: Data**Improve the collection of disaggregated data on the human rights situation of migrants, while ensuring the right to privacy and protection of personal data*

---

support policy formulation, impact assessment and transparency.<sup>257</sup>

OHCHR, the Global Knowledge Partnership on Migration and Development of the World Bank, UNICEF, ILO and the Migrant Forum in Asia have developed indicators for the human rights of migrants, focusing on the rights to health, education and decent work. The indicators were piloted in Mexico and Tunisia with local and national government officials, human rights and migration experts, statisticians and representatives of civil society organizations with expertise in data collection.<sup>258</sup>

In 2015, the NGO Women for Refugee Women carried out a research on women asylum seekers' experiences of detention in the UK. The methodology adopted took into account the individual vulnerabilities of refugee women and was in line with the Social Research Association Ethical Guidelines. After the research aims and purposes were explained, all participants were asked to give consent. Participants were informed that their names and details would be kept confidential.<sup>259</sup>

KOK e.V., a German NGO network against trafficking in human beings, with La Strada International, the European NGO Network against Trafficking in Human Beings, implemented datACT, a joint project to develop data protection standards for anti-trafficking NGO service providers. The aim of the project was to promote the rights of trafficked persons to privacy and autonomy and to protect their personal data.<sup>260</sup>

The Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data is the first binding international instrument which protects the individual against abuses which may accompany the collection and processing of personal data and which seeks to regulate at the same time the transfrontier flow of personal data.<sup>261</sup>

Recognising that there was limited guidance on protecting personal data in the context of migration, the International Organization for Migration (IOM) produced a data protection manual comprised of three parts: IOM's data protection principles as informed by international standards; comprehensive guidelines on each principle, consideration boxes and practical examples. The manual includes templates and checklists to ensure that data protection is taken into account when collecting and processing personal data.<sup>262</sup>

---

---

<sup>257</sup> Office of the High Commissioner for Human Rights (OHCHR), *Human Rights Indicators: A Guide to Measurement and Implementation*, OHCHR 2012, available at <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>.

<sup>258</sup> See the various publications, <http://www.knomad.org/thematic-working-group-single/6#publications>.

<sup>259</sup> Women for Refugee Women, *I am Human: Refugee women's experiences of detention in the UK*, 2015, available at [http://www.refugeewomen.co.uk/2016/wp-content/uploads/2016/02/WRW\\_IamHuman\\_report-for-web.pdf](http://www.refugeewomen.co.uk/2016/wp-content/uploads/2016/02/WRW_IamHuman_report-for-web.pdf). On research ethics and methods see p. 31.

<sup>260</sup> datACT, *Data protection standards for NGO service providers*, KOK e.V. with La Strada International, available at [http://www.dataact-project.org/fileadmin/user\\_upload/pdf/datACT\\_standards.pdf](http://www.dataact-project.org/fileadmin/user_upload/pdf/datACT_standards.pdf).

<sup>261</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>.

<sup>262</sup> *IOM data protection manual*, IOM 2010, <https://publications.iom.int/books/iom-data-protection-manual>.

*Principle 20: Capacity and cooperation*

*Build capacity and promote cooperation amongst and between all relevant stakeholders to ensure a gender-responsive and human rights-based approach to migration governance and to understand and address the drivers of the movement of migrants*

The Praesidium project, led by the Italian Ministry of Interior and carried out by States institutions, in partnership with IOM, UNHCR, the Italian Red Cross and Save the Children Italy, provides a multi-agency cooperation model for humanitarian reception and assistance. Since 2006, various activities have been coordinated among the different agencies according to their mandate and expertise. They include legal information and counselling, identification of individual cases, monitoring reception procedures, and monitoring migrants' health, paying particular attention to women, children and people with disabilities. The partners developed joint procedures to guarantee the constant presence of field officers in landing areas and in migrant reception centres. This allowed for better coordination and information exchange efforts between the different stakeholders.<sup>263</sup>

The Nansen Initiative consultative process worked to build consensus among States on key principles and elements to protect people displaced across borders in the context of disasters caused by natural hazards, including those linked to climate change. Efforts are now focused on the follow up and implementation of the recommendations of the Nansen Initiative Protection Agenda, endorsed by 109 governmental delegations during a Global Consultation in October 2015.<sup>264</sup> The Protection Agenda offers States a set of tools to prevent and prepare for displacement before a disaster strikes, as well as to respond to situations when people are forced to move, either within their own country or across an international border.<sup>265</sup>

In Mexico, the 3x1 Programme for Migrants supports projects formulated by groups of Mexican migrants and aimed at the socio-economic development of their communities of origin. For each peso provided by migrants, the Mexican state contributes with 3 pesos, through the federal, state and municipal governments.<sup>266</sup>

The Agreement on Residency for Nationals of States Members of the Common Market of the South (MERCOSUR) was signed in 2002 and came into force in 2009. The Agreement guarantees that nationals from a country of MERCOSUR can acquire a temporary residence (and after two years, permanent residence) in any of the countries of the regional organization, and that such individuals are entitled to receive the same treatment as nationals, including in the labour market. Regularization programmes have been adopted in Argentina (2007-2010), Brazil (2009), Chile (2007) and Paraguay (2011). The programme in Paraguay allowed the regularization of about 5,000 individuals who had entered the country irregularly prior to October 2010. It has been reported that the "Patria Grande" regularization programme of Argentina that granted either temporary or permanent residence to 560,131 people has brought significant development benefits to the host country.<sup>267</sup>

<sup>263</sup> Save the Children, *Submission for the Office of the High Commissioner for Human Rights (OHCHR) report on migrants in transit (A/HRC/RES/29/2)*, November 2015.

<sup>264</sup> Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change: Volume I*, December 2015, <https://www.nanseninitiative.org>.

<sup>265</sup> The Platform on Disaster Displacement: implementing the Protection Agenda, a toolbox for disaster displaced persons, <http://disasterdisplacement.org/the-platform/our-response/>.

<sup>266</sup> Mexico's submission to OHCHR's report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>267</sup> General Assembly, Promotion and protection of human rights, including ways and means to promote the human rights of migrants: Report of the Secretary-General, A/68/292, 9 August 2013, paras. 52-53.

*Principle 20: Capacity and cooperation*

*Build capacity and promote cooperation amongst and between all relevant stakeholders to ensure a gender-responsive and human rights-based approach to migration governance and to understand and address the drivers of the movement of migrants*

The Canadian national migration system includes diversified pathways to migration for work at all skills levels, study, family unification, and humanitarian purposes. Legal channels include: a) permanent residents under three broad categories (economic, family and humanitarian); b) temporary residents, according to eligibility requirements for admission; c) pathways to citizenship offered to permanent residents. The Canadian system is based on an annual immigration levels plan that sets out the number of permanent residents to be admitted each year in the economic, family reunification and humanitarian categories. It is consulted with provinces, territories and key stakeholders and considers labour market needs, and the capacity of settlement and integration service providers.<sup>268</sup>

The Geneva Canton in Switzerland has launched a pilot regularization programme called “Papyrus” which aims to facilitate irregular migrant workers’ access to Permit B.<sup>269</sup>

Article 61 of Argentina’s 2004 National Migration Act demands that in all cases in which the irregular status is identified, the primary response from the State is to grant a time period for migratory regularization and only in the case that the regularization is not possible after an integral analysis of the categories and the spirit of the law, the Authority could consider their possible expulsion from the territory. In this case, the decision would not become official until a judge reviews the administrative decision.<sup>270</sup> In addition, article 17 of the Law 25.871 establishes that “the State shall facilitate the adoption and implementation of measures aimed at regularising the migration status of foreigners.” Decree No. 616 of 2010, that regulates the Law 25.871, establishes that “in order to regularise the migration status of foreigners, the National Migration Office may: “a) Issue provisions that simplify and streamline respective administrative processes; b) Sign agreements and receive cooperation from public or private entities; c) Develop and implement programs in those areas of the country that require special treatment; d) Sign agreements with foreign authorities within the Republic of Argentina in order to streamline and promote receipt of documentation from those countries; e) Establish criteria for exemption from payment of the migration tax in cases of poverty or when humanitarian reasons justify such action.”<sup>271</sup>

Since 2008, Mexico has implemented 3 temporary programmes of regularization (2008, 2015, 2017), in order to overcome obstacles that irregular migrants face in accessing rights and public or private services and to prevent abuses from authorities and non-State actors.<sup>272</sup>

In November 2016, the Battersea Arts Centre in London hosted London Stories: Made by Migrants, a festival of storytelling where people shared their experiences of moving to the UK capital. 30 selected storytellers performed each night and covered a broad range of migration experiences to the UK, from those who emigrated in the 1940s to recent arrivals, showing how migration is driven by a range of factors.<sup>273</sup>

<sup>268</sup> Canada’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>269</sup> [https://www.lecourrier.ch/147027/regularisation\\_enfin](https://www.lecourrier.ch/147027/regularisation_enfin).

<sup>270</sup> Provided during the consultation process by Centro de Estudios Legales y Sociales (CELS, Argentina) ; Centro de Derechos Humanos de la Universidad Diego Portales (Chile); Comisión Argentina para los Refugiados y Migrantes (CAREF, Argentina) ; Iniciativa Frontera Norte de México: Programa de Defensa e Incidencia Binacional — Acción Articulada Noreste (México) ; Fundación para la Justicia y el Estado Democrático de Derecho (FJEDD, México) ; and Programa Migración y Asilo del Centro de Justicia y Derechos Humanos de la Universidad Nacional de Lanús (Argentina).

<sup>271</sup> Information provided by Centro de Estudios Legales y Sociales (CELS, Argentina).

<sup>272</sup> Mexico’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>273</sup> Hugh Montgomery, Meet the migrant storytellers helping to reframe the migration debate, *i News*, 4 November 2016, <https://inews.co.uk/essentials/culture/meet-migrant-storytellers-helping-reframe-toxic-migration-debate/>; Battersea Arts Centre, [https://www.bac.org.uk/content/42287/whats\\_on/whats\\_on/shows/london\\_stories\\_made\\_by\\_migrants](https://www.bac.org.uk/content/42287/whats_on/whats_on/shows/london_stories_made_by_migrants).

*Principle 20: Capacity and cooperation*

*Build capacity and promote cooperation amongst and between all relevant stakeholders to ensure a gender-responsive and human rights-based approach to migration governance and to understand and address the drivers of the movement of migrants*

Greece will create Migrants/Refugees Integration Centres across the country. The Migrants/Refugees Integration Centres will function as parts of Community Centres which will be established in the Municipalities of the country. The aims of their operation are the development of local information points for the integration of migrants/refugees, and the planning/implementation of integration activities, tailored made to the needs of these groups.<sup>274</sup>

In Canada a whole-of-society approach to integration is undertaken, engaging national and sub-national governments, municipalities, educational and other public institutions, the private sector, community organizations, and individuals. Examples of inclusion are the Local Immigration Partnerships (LIPs), which are community-based partnerships that enhance collaboration, coordination and strategic planning at the community level in order to foster more welcoming and inclusive communities and improve settlement and integration outcomes.<sup>275</sup>

Good Chance builds temporary ‘theatres of hope’ where the need for expression is great and where there is nowhere to fulfil this need. Supported by a couple of UK theatres and other allies, they spent seven months creating work with the residents of the Jungle camp in Calais and felt the difference that a space to be together, to express, can make. The daytime schedule could include writing workshops, music lessons, dance, acting and performance. They also regularly welcomed visiting companies and artists who deliver workshops over one to seven days in specific performance arts like circus and clowning, or work in smaller groups to develop a more intimate process and performance piece over a longer period. Every evening they hosted big communal events which bring all of the camp’s many nationalities together. Events included poetry slams, stand up comedy, acoustic sets, theatre performances, rap battles, film nights and mass chill outs.<sup>276</sup>

In South Africa in 2013, Community Media for Development worked with 20 refugees, migrants, and South Africans to develop three mini-dramas and related discussion guides to help promote awareness, encourage dialogue, and urge migrants and refugees in South Africa to seek protection. The drama, “Change the Story: Migrants and Refugees speak against Gender-based violence” was played on radio in 2013. One episode explores the plight of a migrant woman who is physically and sexually assaulted by her husband and her difficulties seeking help from police.<sup>277</sup>

Canada regularly evaluates its immigration programs and uses the findings to make improvements. These evaluations are published online.<sup>278</sup>

<sup>274</sup> Greece’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>275</sup> Canada’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).

<sup>276</sup> Information at <http://goodchance.org.uk/about/>.

<sup>277</sup> UNODC, IFRC, Combating violence against migrants, 2015, pp. 34-35. For more information, see: [www.cmfd.org/what-we-do/radio-drama/change-the-story-refugees-and-migrants-speak-against-gbv](http://www.cmfd.org/what-we-do/radio-drama/change-the-story-refugees-and-migrants-speak-against-gbv).

<sup>278</sup> Canada’s submission to OHCHR’s report on the compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law (Human Rights Council Resolution A/HRC/35/L.28).