



# General Assembly

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## Human Rights Council

### Eighteenth session

Agenda item 3

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

**Argentina<sup>\*</sup>, Bolivia (Plurinational State of)<sup>\*</sup>, Bosnia and Herzegovina<sup>\*</sup>, Chile, Colombia<sup>\*</sup>, Costa Rica, Ecuador, Ethiopia<sup>\*</sup>, Ghana, Guatemala, Honduras<sup>\*</sup>, Peru, Serbia<sup>\*</sup>, Turkey<sup>\*</sup>, Uruguay, Venezuela (Bolivarian Republic of)<sup>\*</sup> : draft resolution**

### 18/... Human rights of migrants

*The Human Rights Council,*

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

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

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

*Recalling further* the importance of the decent work agenda of the International Labour Organization, including for migrant workers, the eight fundamental Conventions of that Organization and the Global Jobs Pact adopted by the International Labour Conference at its ninety-eighth session, as a general framework within which each country can

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<sup>\*</sup> Non-Member State of the Human Rights Council.

formulate policy packages specific to its situation and national priorities in order to promote a job-intensive recovery and sustainable development,

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

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

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

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

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

*Bearing in mind also* that article 4 of the International Covenant on Economic, Social and Cultural Rights establishes that the States parties recognize that, in the enjoyment of those rights provided by the State in conformity with the Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society,

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

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

*Expressing concern also* at the fact that the vulnerable situation of migrants may result in violations of their human rights,

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

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

*Emphasizing* the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and the need to protect the human rights of

migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

*Mindful* of the shared responsibility in the protection of the human rights of migrants and that the long-term benefits of migration can be achieved by improving international cooperation,

1. *Takes note* of the report of the Special Rapporteur on the human rights of migrants;<sup>1</sup>

2. *Calls upon* States that have not yet signed, ratified or acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to consider doing so, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

3. *Stresses* the obligation of States to protect the human rights of migrants regardless of their legal status, and also taking into account the principles and standards set forth in the relevant human rights instruments as well as those relevant conventions of the International Labour Organization;

4. *Expresses its concern* at legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

5. *Reaffirms* that migrant workers are entitled to equal protection by the law and should receive due process protection regardless of their migratory status;

6. *Calls upon* all States to ensure that their immigration policies are consistent with their obligations under human rights law;

7. *Reaffirms* the rights set forth in the Universal Declaration of Human Rights and the obligations of States under the International Covenants on Human Rights and, in this regard, strongly condemns the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, reinforce the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

8. *Requests* all States to firmly protect migrant workers' rights with regard to their conditions of work, regardless of their migratory status, inter alia, those rights relating to payment of wages for the time worked, conditions of health, safety at work and freedom of association;

9. *Stresses* that migrant workers are entitled, without any discrimination, to just and favourable conditions of work and should have the appropriate means of securing them, including through the protection of due process, access to justice and the right to assemble peacefully and associate freely;

10. *Reaffirms* that once a migrant worker assumes an employment relationship, the migrant acquires rights that should be recognized and ensured, irrespective of his or her migratory status, in the State where he or she is employed;

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<sup>1</sup> A/HRC/17/33.

11. *Welcomes* programmes and policies implemented by some States of destination that promote the full respect of labour rights of migrants, regardless of their immigration status, as well as initiatives of States of origin to promote labour markets;

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

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

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

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

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