



QUNO

Quaker United Nations Office

Foundations for Implementation

A reference tool containing guidance drawn from the UN's Special Procedures and Treaty Bodies to support States in human rights based implementation of the Global Compact for Safe, Orderly and Regular Migration.

Objective 14: Enhance consular protection, assistance and cooperation throughout the migration cycle

What This Reference Tool Contains

This compilation draws on recommendations from:

- Special Procedure thematic reports that relate specifically to migrants
- Treaty Body General Comments and General Recommendations that relate specifically to migrants

This practical tool emphasises recommendations for individual State action rather than observations, and includes those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact.

December 2018

Objective 14: Enhance consular protection, assistance and cooperation throughout the migration cycle

Guidance from Special Procedures

| Source | Guidance |
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| Special Rapporteur on the human rights of migrants (2015), A/70/310 (Section A (p.23)) | Ensure that consular support is always available to migrants in countries of destination, so that they are able to access information and assistance about finding alternatives to exploitative situations, and gaining access to justice and social protection services |
| SR migrants (2014), A/HRC/26/35 (para.78) | Embassies and consulates of countries of origin should play an active role in protecting the rights of their nationals, such as by providing counselling, shelter, travel documents and return tickets, and assisting in legal proceedings |
| SR migrants (2010), A/65/222 (para.88) | States should allow consular access to and independent scrutiny and control mechanisms of the conditions of immigration detention (judicial authorities, international and local non-governmental organizations, civil society, international human rights mechanisms, consular services and humanitarian institutions) |
| SR migrants (2010), A/65/222 (para.113) | States should recognize the important role played by consular offices in the protection of migrants and ensure that they are sufficiently resourced and given an explicit mandate to intervene on behalf of their nationals who are in irregular situation, including those in detention centres. The Special Rapporteur encourages consular offices to share good practices and strengthen cooperation |
| SR migrants (2009), A/HRC/11/7 (para.97) | The Special Rapporteur also encourages consular services to continue ensuring respect for the rights of the child in the context of return of migrant children |
| SR migrants (2004), E/CN.4/2004/76 (para.87) | The Special Rapporteur recommends that consulates and embassies should play an active role in protecting the rights of migrant domestic workers, by means including regular checks on their circumstances. The Special Rapporteur considers that it is good practice for consulates to provide shelter to women fleeing from abusive employers and provide them with assistance in proceedings against the former. When migrant domestic workers cannot claim their rights in court, the Special Rapporteur considers it good practice for consulates to help mediate between the parties through contacts with the ministries and departments concerned |
| SR migrants (2003), E/CN.4/2003/85 (para.76) | The Special Rapporteur would like to encourage Governments to ensure that their consular and embassy personnel are adequately trained in providing assistance to nationals in distress, including irregular migrants, and that there is a mechanism to address cases of negligence in providing such assistance. The Special Rapporteur would also like to underline that such assistance should be provided by representatives of all relevant government ministries and departments, as well as specialized medical, social and psychological personnel, at least in those countries with a high migration rate |

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| <p>SR migrants (2002), E/CN.4/2002/94 (para.108)</p> | <p>The Special Rapporteur recommends to the States in which migration originates that they should provide effective consular protection when their nationals are detained or their rights are infringed. She also recommends to all States that they should remedy situations involving the indefinite detention of migrants, whose rights may be infringed, especially when obstacles exist to their deportation</p> |
| <p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.36)</p> | <p>All detained migrants from the moment of their detention and during the course of detention must be informed of the right to contact their consular representatives. If the migrant wishes to exercise that right, it is the duty of the authorities holding the migrant to facilitate such contact</p> |
| <p>Special Rapporteur on trafficking in persons, especially women and children (2017), A/HRC/35/37 (para.113)</p> | <p>States should equip embassies abroad to provide services to migrant workers, especially channels for consultations and complaints</p> |
| <p>Special Rapporteur on violence against women, its causes and consequences (1997), E/CN.4/1997/47 (para.177)</p> | <p>Sending States should establish migrant desks at their embassies or consulates to assist migrant workers, particularly those who are victims of violence. In addition, sending States should implement orientation programmes for migrant workers, whereby they are taught basic language skills, introduced to the culture in which they will be living, and provided with information on what to do in situations of violence</p> |

Guidance from Treaty Bodies

| Source | Guidance |
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| <p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.62)</p> | <p>In particular, embassies and consulates of countries of origin that are present in countries where migrant domestic workers are employed are encouraged, in coordination with the authorities in the countries of employment, to:</p> <ul style="list-style-type: none"> (a) Ensure adequately trained staff and mechanisms (including telephone hotlines) to receive and address complaints made by migrant domestic workers, including through the provision of legal aid; (b) Provide counselling and facilitate appropriate shelter for migrant domestic workers, especially women and children, fleeing from abusive employment circumstances; (c) Expedite the processing of temporary travel documents and return tickets to avoid migrant domestic workers in distress being trapped in shelters for lengthy periods of time; (d) Receive, record and report information that can be useful to migrant domestic workers in the country of employment as well as to prospective migrant workers back home regarding: <ul style="list-style-type: none"> (i) Actual country and employment conditions; (ii) The experience of migrant domestic workers, including travel and arrival, migration-related fees and debt, the effects on family, workplace conflicts, issues of rights and access to justice |

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| <p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.63)</p> | <p>Embassies and consulates of countries of origin are encourage to cooperate with each other to identify abusive recruitment agencies and to promote appropriate protection policies for migrant domestic workers</p> |
| <p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p> | <p>States parties must properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid and shelter when needed. Where States parties have specific obligations under customary international law or treaties such as the Vienna Convention on Consular Relations, those obligations must be carried out in full in relation to women migrant workers (article 3)</p> |
| <p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/G/GC/4-CRC/C/GC/23 (para.II.C.19)</p> | <p>The Committees are of the opinion that a comprehensive interpretation of the Convention on the Rights of the Child with articles 7 (a), 23 and 65 (2) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should imply the development and implementation of effective consular protection policies which include specific measures directed to protecting children’s rights, such as providing ongoing training to consular staff on the two Conventions, as well as on other human rights instruments, and promoting protocols on consular protection services</p> |



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This reference tool is part of a larger document that contains guidance for all 23 objectives of the Global Compact for Safe, Orderly and Regular Migration. It is available online at: quno.org/resource/2018/11/foundations-implementation

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