



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 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work

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 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2016), A/HRC/32/40 (para.92(e))	To address the direct impact of international trade on the human right of migrants, the Special Rapporteur recommends that: States strengthen monitoring and enforcement of labour standards in all stages of the migratory process, from pre-departure and recruitment in the country of origin to employment in the destination country; extend oversight to traditionally unregulated and informal sectors and include labour inspections and auditing in value-addition and supply chains; end impunity for abusive immigration officials, recruitment agents, employers and others for violating migrants' rights, including through the use of sanctions and monetary fines; and adopt legislation, allocating appropriate resources and pursuing ministerial consultations if a trade party has not complied with trade terms;
SR migrants (2016), A/HRC/32/40 (para.92(l))	To address the direct impact of international trade on the human right of migrants, the Special Rapporteur recommends that: States collaborate towards the development of multi-stakeholder action plans that engage employers, trade unions, migrants' associations and other members of civil society in the promotion of decent work and share best practices;
SR migrants (2016), A/HRC/32/40 (para.93(c))	To address the structural impact of international trade on the human rights of migrants, the Special Rapporteur recommends that States: When entering into trade agreements, undertake comprehensive ex ante and ex post human rights impact assessments that consider the rights of migrants through direct consultations with migrants, migrants' associations and trade unions, and, on the basis of these assessments, include relevant general exception clauses and other compensatory, adjustment, grievance and remedial mechanisms — which may include minimum wage provisions, welfare funds to support migrant workers, strengthened consular support, voluntary insurance schemes for migrants and other housing or transitional assistance — and termination clauses, among other measures;
SR migrants (2016), A/HRC/32/40 (para.93(d))	To address the structural impact of international trade on the human rights of migrants, the Special Rapporteur recommends that States: Ensure that gender-specific considerations are adequately integrated into the development of such human rights impact assessments so that the impact of trade agreements on the human rights of migrant women and men are identified and effectively mitigated;
SR migrants (2015), A/70/310 (section A (p.19))	Abolish “sponsorship” systems whereby migrants are dependent on their employers for residence visas and work permits, and thus vulnerable to abuse and exploitation
SR migrants (2015), A/70/310 (section A (p.19))	Ensure that the relevant provisions within labour laws and regulation cover all sectors. Ensure that special attention is given to sectors that typically operate outside formal labour regulation, such as domestic work

<p>SR migrants (2015), A/70/310 (section A (p.20))</p>	<p>Develop country-level and regional policies on tackling exploitative and abusive recruitment practices, which bring together the perspectives of the multiple stakeholders involved in the recruitment process, articulate a clear vision for eliminating abuse and exploitation, and precisely define the roles and responsibilities within the complex network of actors who contribute to international recruitment</p>
<p>SR migrants (2015), A/70/310 (section A (p.20))</p>	<p>Ensure that strong gender analysis is included within all laws and policies to ensure protections for the additional vulnerability of many female migrant workers. Such protections should, however, never limit the economic opportunities or freedom of movement of women</p>
<p>SR migrants (2015), A/70/310 (section A (p.21))</p>	<p>Ensure that actions following the detection of unethical recruitment practices never economically or criminally penalize migrants</p>
<p>SR migrants (2015), A/70/310 (section A (p.21))</p>	<p>Develop a regulatory environment that supports the unionization of all workers, including migrant workers, and the vital role that trade unions can play in the protection of the human rights and labour rights of migrant workers</p>
<p>SR migrants (2015), A/70/310 (section A (p.22))</p>	<p>Strengthen the capacity of the independent judiciary to provide access to justice for migrant workers who have been exploited by recruiters and punish perpetrators in such a way that creates real and lasting disincentives for the mistreatment of migrants</p>
<p>SR migrants (2015), A/70/310 (section A (p.22))</p>	<p>Consider the development of specialist tribunals to ensure access to justice for migrant workers. Such specialist provisions would allow for the individual needs of migrants to be met, and for the development of a systemic view of rights violations related to labour migration and recruiters</p>
<p>SR migrants (2015), A/70/310 (section A (p.22))</p>	<p>Consider seeking technical assistance from the International Labour Organization and the Office of the United Nations High Commissioner for Human Rights to support the wholesale transition to an ethical recruitment system, in line with core international human rights and labour standards</p>
<p>SR migrants (2015), A/70/310 (section A (p.22))</p>	<p>Consider the development of specialist tribunals to ensure access to justice for migrant workers. Such specialist provisions would allow for the individual needs of migrants to be met, and for the development of a systemic view of rights violations related to labour migration and recruiters</p>
<p>SR migrants (2015), A/70/310 (section A (p.23))</p>	<p>Increase the capacity of labour attachés within missions in countries of destination, in order to allow them to increase the scope of their work and give more attention to combatting the practices of unscrupulous recruiters</p>
<p>SR migrants (2015), A/70/310 (section A (p.24))</p>	<p>Include international business associations and trade unions, as well as the ILO, in dialogues with the private sector to utilize their reach and impact in support of transition to an ethical system of labour recruitment</p>

<p>SR migrants (2015), A/70/310 (section A (p.24))</p>	<p>Lead by example in the development and implementation of the human rights due diligence undertaken in relation to government contracts. Prioritize and reward ethical recruitment agencies within the contracting of government work and ensure that the costs of ethical recruitment are factored into the tendering process. Have a zero-tolerance policy on the charging of fees and broader abuses of migrant workers' rights in any part of government supply chains. Ensure regular and robust independent audits to ensure compliance</p>
<p>SR migrants (2015), A/70/310 (section A (p.19))</p>	<p>Consider options for collective action to totally ban recruitment fees to level the playing field and ensure that concerns about international competitiveness will not impact wholesale transition to an ethical system</p>
<p>SR migrants (2015), A/70/310 (section A (p.19))</p>	<p>Include advocacy of the business case for responsible recruitment practices that prohibit recruitment fees in engagement with the private sector, and involve business associations in the promotion of such a business case</p>
<p>SR migrants (2015), A/70/310 (section A (p.20))</p>	<p>Require recruitment agencies who facilitate the employment of migrants abroad to be licensed in both countries of origin and destination in order to ensure more effective bilateral oversight of recruitment practices</p>
<p>SR migrants (2015), A/70/310 (section A (p.21))</p>	<p>Destination countries should invest in opening satellite offices of labour ministries and in working with local authorities in countries of origin, in order to support the implementation of an ethical recruitment system. These offices could conduct joint information campaigns, register and monitor the labour contracts of migrant workers and provide joint oversight of the recruitment chain</p>
<p>SR migrants (2014), A/HRC/26/35 (para.72)</p>	<p>Improve the recruitment process, including through the effective regulation of private recruitment agencies and sub-agents/brokers, and abolish the practice of recruitment fees for migrants, as these fees should be covered by the employer</p>
<p>SR migrants (2014), A/HRC/26/35 (para.80)</p>	<p>Ensure that all workers receive a contract in a language they understand, and that they are protected against contract substitution. Ensure that the contract signed by the worker in their home country is respected in the destination country, and that the work they perform is in accordance with their contract. Bilateral agreements between countries of origin and destination should strengthen human rights protection, and include a model contract which sets out the rights of the worker, including working conditions, and salary. Use certified recruitment agencies, and ensure that they do not work with non-registered sub-agencies</p>
<p>Special Rapporteur on the human rights of migrants (2014), A/HRC/26/35 (para.83)</p>	<p>Guarantee that all migrants have the right to accept and to leave employment voluntarily, without the threat of a penalty. Migrants who choose to leave an abusive employer should not lose their residence permit. Instead, they should receive adequate support, for example by providing them with a long enough grace period in order to find a new job. Allowing migrants to change employers when they wish would render them far less vulnerable to exploitation</p>

<p>SR migrants (2014), A/HRC/26/35 (para.81)</p>	<p>Combat wage theft and ensure, by law, that all migrant workers receive their salaries in a bank account, and that they are paid their full salary, including paid holidays, sick leave and overtime compensation when applicable, on time, and assist with recovery of wages when this is not complied with</p>
<p>SR migrants (2014), A/HRC/26/35 (para.94)</p>	<p>Repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. Prohibit by law mandatory pregnancy testing and deportation of women migrants who are pregnant. Take all the necessary measures to combat gender-based violence</p>
<p>SR migrants (2014), A/HRC/26/35 (para.99)</p>	<p>Ensure that all migrant victims of abuse and exploitation have access to effective remedies, including the possibility of pursuing compensation claims, regardless of their residence status, without fear of retribution. Migrants should be provided with easy access to effective mechanisms for bringing complaints about violations of their rights, including a free phone number they can call to report cases in their own language. National human rights institutions have an important role to play in this respect, and consulates and embassies should also assist their nationals. Complaint mechanisms should be streamlined so that migrants can register their complaints with one Government office. All complaints should be promptly investigated, regardless of the residence status of the migrant</p>
<p>SR migrants (2014), A/HRC/26/35 (para.102)</p>	<p>Effectively implement employer sanctions and ensure that all abuses, including ill-treatment and exploitation are investigated and properly sanctioned where appropriate. Every employer and recruitment agent who engages in fraud or deception or is responsible for any other form of exploitation of migrant workers should be brought promptly to justice, including through criminal prosecutions, and be prevented from employing/recruiting migrant workers in the future</p>
<p>SR migrants (2004), E/CN.4/2004/76 (para.70)</p>	<p>The Special Rapporteur urges States of origin and destination of large-scale flows of migrant domestic workers to take all necessary steps to ensure the protection of such workers' rights and eliminate the factors which make them vulnerable at all phases of migration, from recruitment to their return home</p>
<p>SR migrants (2004), E/CN.4/2004/76 (para.83)</p>	<p>The Special Rapporteur recommends that legislation in the countries of destination should not allow migrant domestic workers to be dismissed in the event of illness without fair compensation. She also recommends that legislation should prohibit such workers from being subjected to certain medical examinations without their explicit consent</p>
<p>SR migrants (2004), E/CN.4/2004/76 (para.84)</p>	<p>The Special Rapporteur wishes to stress the importance of ensuring that every migrant domestic worker has the possibility and the right to visit his or her family. To that end, she recommends that contracts should provide for the right to vacations and that agreements regulating workers' entry and stay in the country of destination should allow them to leave the country and return to it through the issuance of multiple-entry visas. The Special Rapporteur views as good practice the existence of public and private programmes to facilitate communication by migrant domestic workers with their families by means including the Internet and special telephone tariffs</p>

<p>SR migrants (2003), A/58/275 (para.31)</p>	<p>The Special Rapporteur emphasizes that efforts must be made to combat corruption and punish abusive employers. The first step in this direction is an inclusive and detailed employment contract that is written in a language that the migrant can understand. It should contain information with respect to the work site, the duration of the contract, the monthly salary, the working hours and the conditions of stay (including residency documents and work permit, suitable and sanitary living quarters, adequate food and medical services). It should also have a provision giving the employee the right to terminate the contract under specified conditions, as well as information on where to find assistance in case of problems</p>
<p>Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2018), A/73/139 (para.54(l))</p>	<p>Work towards the creation of gender-responsive migration policies, which should include fair and accessible legal access to decent work and safe and fair migratory channels for women and men, and consider measures such as the decoupling of residence permits from specific employment relationships to diminish the risks of contemporary forms of slavery among migrant workers</p>
<p>SR Slavery (2018), A/HRC/39/52 (para.82(k))</p>	<p>End sponsorship systems and prohibit the retention of passports or other identity documents by employers, introduce an independent immigration status and grant a grace period to migrant domestic workers to find new employment when leaving an employer;</p>
<p>SR Slavery (2010), A/HRC/15/20 (para.96)</p>	<p>Migrant domestic workers are vulnerable to subjugation to servitude, since they often have a precarious migration status and face prejudices. The Special Rapporteur recommends that States: Ensure Immigration and labour authorities cooperate to register all migrant workers and inform them about their rights in a language they can understand</p>
<p>Independent Expert on the effects of foreign debt (2018), A/73/179 (para.90(3)(d))</p>	<p>Ensuring that employment regulations and social and legal protection are extended to cover workers in the informal economy and throughout the supply chain. Migrant workers should be protected in countries of origin, destination and transit;</p>
<p>SR trafficking (2017), A/HRC/35/37 (para.105)</p>	<p>States should ensure that employment contracts are clear and transparent and are respected, and should require and ensure that written contracts of employment are provided to workers specifying the job to be performed and the terms and conditions of employment, including those derived from collective agreements. The contract, or an authoritative copy, should be in the language of the worker or in a language the worker can understand, and the necessary information should be provided in a clear and comprehensive way in order to allow the worker to express his or her free and informed consent. Contracts for migrant workers should be provided sufficiently in advance of their departure from their country of origin. The contracts should not be substituted and should be enforceable in the destination country. While respecting confidentiality and the protection of personal data, Governments may consider the use of information technology to achieve the above-mentioned objectives. In the absence of a written contract, States should ensure that all rights of recruited workers are respected in accordance with existing legislation and regulations</p>

<p>SR trafficking (2017), A/HRC/35/37 (para.107)</p>	<p>States should ensure that workers have rapid and affordable access to grievance and other dispute resolution mechanisms that enable them to address alleged abuses and fraudulent practices in recruitment and employment without fear of retaliatory measures, including blacklisting, detention or deportation, irrespective of their presence or legal status in the State, and to appropriate and effective remedies where abuses have occurred. States should also ensure, through judicial, administrative, legislative or other means, that when abuses related to recruitment and employment occur within their territory and/or jurisdiction, those affected have access to effective remedies, which may include, but should not necessarily be limited to, compensation. Pending the investigation or resolution of a grievance or dispute, whistle-blowers or complainants should be protected and migrant workers should have timely and effective access to procedures. States should ensure that these mechanisms can be accessed across borders after a worker has returned to his or her country of origin</p>
<p>SR trafficking (2017), A/HRC/35/37 (para.112)</p>	<p>States should ensure that bilateral and multilateral agreements on labour migration include mechanisms for oversight of recruitment of migrant workers, are concluded between countries of origin, transit and destination, as relevant, and are implemented effectively. States should also ensure that such agreements are consistent with internationally recognized human rights, including fundamental principles and rights at work, and other relevant international human rights instruments and labour standards. Agreements should also contain specific mechanisms to ensure international coordination and cooperation, including on consular protection, and to close regulatory and enforcement gaps related to recruitment across common labour migration corridors</p>
<p>SR trafficking (2016), A/71/303 (para.74(d))</p>	<p>State contracting agencies of armed forces deployed in conflict and post-conflict areas, including in the context of peacekeeping operations, should: Require and ensure that private individuals or companies they have contracted or subcontracted protect the rights of workers, including migrant workers and refugees, and provide decent working and living conditions to workers, including safeguarding their right to return and their freedom of assembly and association;</p>
<p>SR trafficking (2017), A/HRC/35/37 (para.111)</p>	<p>States should ensure full recognition of the rights of all workers, including migrant workers, to join and form trade unions and to bargain collectively</p>
<p>SR trafficking (2016), A/71/303 (para.74(a))</p>	<p>State contracting agencies of armed forces deployed in conflict and post-conflict areas, including in the context of peacekeeping operations, should: Exercise due diligence when employing workers, including migrant workers, to provide goods and services and help to ensure that businesses operating in conflict and post-conflict areas are not involved in human rights abuses, including trafficking in persons for labour exploitation;</p>
<p>Special Rapporteur on the sale and sexual exploitation of children (2016), A/71/261 (para.99(j))</p>	<p>Establish and open more regular migration channels and ensure the protection of all human rights in employment. Residence permits should not be linked to an employer, thus enabling migrant workers to change employment in case of abuse;</p>

<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(b))</p>	<p>Establish labour corridors through enforceable bilateral agreements, in accordance with the right to health framework, which clearly define the rights of migrant workers, obligations of recruitment agencies, employers and States, and remedies, including compensation for violations, in line with the right to health;</p>
<p>SR health (2013), A/HRC/23/41 (para.76(k))</p>	<p>Ensure protection of migrant workers, especially those in dangerous industries, from abuse and exploitation by employers by providing accessible redress mechanisms and compensation in cases of violation;</p>
<p>SR health (2013), A/HRC/23/41 (para.76(n))</p>	<p>Encourage the establishment of migrant workers associations and trade unions to ensure effective representation and participation of migrant workers, including irregular and returnee migrant workers, in the formulation, implementation, monitoring and enforcement of laws and policies, including outreach and referral programmes, pre-departure sessions and social support groups</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.34)</p>	<p>Agencies engaged in the movement of migrant domestic workers, whether in countries of origin, transit or employment, must be subject to authorization, approval and supervision by public authorities. This may take the form of formal, regular, transparent and State-regulated: (a) Licensing, possibly involving processes of accreditation and periodic renewal; (b) Monitoring inspection and evaluation; (c) Sanctions and penalties; (d) Systems of recording and reporting, including web-based formats that widely and easily accessible to the public, with particular attention to instances of complaints and conflicts involving workers</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.35)</p>	<p>States parties should establish specific criteria relating to migrant domestic workers' rights and ensure that only those agencies observing these criteria and codes can continue to operate. Such criteria could usefully be established in consultations with migrant workers' organizations themselves, non-governmental organizations working with migrant workers and with workers' and employers' organizations</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.36)</p>	<p>Additionally, States parties are encouraged to adopt codes of conduct on the recruitment of migrant domestic workers, including specific rules governing fees and salary deductions, and to provide for appropriate penalties and sanctions to enforce them. States parties should ban recruitment fees charged to domestic workers, including through salary deductions</p>

<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.38)</p>	<p>Labour protections in national law should be extended to domestic workers to ensure equal protection under the law, including provisions related to minimum wages, hours of work, days of rest, freedom of association, social security protection, including with respect to maternity, pension rights and health insurance, as well as additional provisions specific to the circumstances of domestic work. In this regard, migrant domestic workers should enjoy treatment not less favourable than that which applies to nationals of the State of employment (article 25)</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.39)</p>	<p>States should protect the right of migrant domestic workers to freedom of movement and residence, including by ensuring that migrant domestic workers are not required to live with their employers or stay in the house during their time off (article 39). States should ensure that migrant domestic workers retain possession of travel and identity documents (article 21)</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.40)</p>	<p>States parties are encouraged to ensure that migrant domestic workers have explicit, written terms of employment, in a language they can understand, outlining their specific duties, hours, remuneration, days of rest, and other conditions of work, in contracts that are free, fair and fully consented to. In particular, States parties may wish to consider developing model or standard provisions for these purposes</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.42)</p>	<p>States parties should ensure that migrant domestic workers are granted access to social security benefits on the basis of equal treatment with nationals</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.49)</p>	<p>States of employment should ensure that all migrant domestic workers have access to mechanisms for bringing complaints about violations of their rights (articles 18, paragraph 1, and 83). States parties should ensure that such complaints are investigated in an appropriate manner and within a reasonable period of time and that cases of violations are appropriately sanctioned. To facilitate access to redress mechanism, States parties could for example designate a domestic workers' Ombudsperson. States parties should also ensure that migrant domestic workers can obtain legal redress and remedies for violations of their rights by employers who enjoy immunity under the Vienna Convention on Diplomatic Relations</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.50)</p>	<p>In order to ensure effective access to justice and remedies for all migrant domestic workers, the Committee considers that migrant domestic workers should be able to access courts and other justice mechanisms without fear of being deported as a consequence, and that migrant domestic workers should have access to temporary shelter when needed due to the abusive circumstances of their employment. States parties are encouraged to consider time-bound or expedited legal proceedings to address complaints by migrant domestic workers</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.65)</p>	<p>The Committee emphasizes the importance of genuine consultations with migrant domestic workers and civil society organizations in the development and implementation of legislative and other measures related to migrant domestic workers and the protection of their rights</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.1.21)</p>	<p>State parties have an obligation to protect all migrant workers and members of their families against violence, physical injury threats and intimidation, whether by public officials or by private individuals, groups or institutions. This obligation requires States parties to: (a) Adopt and implement legislation prohibiting such acts; (b) Effectively investigate cases of abuse and violence; (c) Prosecute and punish those responsible with appropriate punishments; (d) Provide adequate reparation to victims and members of their families; (e) Provide human rights training for public officials; and (f) Effectively monitor the conduct of State agents, and regulate that of private persons and entities, with a view to preventing such acts</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.1.61)</p>	<p>States parties must protect child migrant workers from violence and ensure their rights to education, leisure and occupational health</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.1.62)</p>	<p>While States parties may refuse migrant workers who do not have work permits access to their labour markets, once an employment relationship has been initiated and until it is terminated, all migrant workers, including those in an irregular situation, are entitled to equal conditions of work and terms of employment. The conditions of work and terms of employment listed in article 25, paragraph 1(a) and (b), are non-exhaustive examples. The equal treatment principle also covers any other matter that, according to national law and practice, is considered a working condition or term of employment, such as maternity protection</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.1.63)</p>	<p>States parties should require employers to explicitly state in contracts that are free, fair and fully consented to, the terms of employment for migrant workers, including those in an irregular situation, in a language they understand, outlining their specific duties, hours of work, remuneration, days of rest and other conditions of work. They should take effective measures against non-payment of wages, delay in payment until departure, transfer of wages into accounts that are inaccessible to migrant workers, or payment of lower wages to migrant workers, especially those in an irregular situation, than to nationals. States parties should also step up inspections of places where migrant workers are routinely employed and instruct labour inspectorates not to share data concerning the migration status of migrant workers with immigration authorities, as their primary duty is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, in accordance with article 3, paragraph 1 (a), of ILO Convention No. 81 (1947) concerning Labour Inspection in Industry and Commerce</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.1.64)</p>	<p>States parties shall provide for appropriate sanctions for employers who derogate from the principle of equality of treatment in private employment contracts with migrant workers in an irregular situation, and ensure that those migrant workers have access to labour courts or other judicial remedies when their rights are violated and without fear of being deported (art. 83). To give effect to this provision, the Committee is of the view that States parties shall also put in place an effective monitoring system for workplaces, especially in industries known to be employing migrant workers in an irregular situation</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.1.65)</p>	<p>States parties shall ensure these rights, including the right to collective bargaining, encourage self-organization among migrant workers, irrespective of their migration status, and provide them with information about relevant associations that can provide assistance</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.23)</p>	<p>States parties should seek the active involvement of women migrant workers and relevant non-governmental organizations in policy formulation, implementation, monitoring and evaluation</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:..(ii) Provide a list of authentic, reliable recruitment agencies and create a unified information system on available jobs abroad; (iii) Provide information on methods and procedures for migrating to work for women workers who wish to migrate independently of recruitment agencies; (iv) Require recruitment agencies to participate in awareness-raising and training programmes and sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards the women... (c) Regulations and monitoring systems, as follows: (i) States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employment agencies respect the rights of all women migrant workers. States parties should include in their legislation a comprehensive definition of irregular recruitment along with a provision on legal sanctions for breaches of the law by recruitment agencies (article 2 (e)); (ii) States parties should also implement accreditation programmes to ensure good practices among recruitment agencies (article 2 (e))...States parties should ensure the availability of legal assistance in connection with migration for work. For example, legal reviews should be available to ensure that work contracts are valid and protect women's rights on a basis of equality with men (articles 3 and 11)</p>

<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26 (b))</p>	<p>Legal protection for the rights of women migrant workers: States parties should ensure that constitutional and civil law and labour codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labour laws, including wage and hour regulations, health and safety codes and holiday and vacation leave regulations. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11)...States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e))</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26 (c))</p>	<p>Access to remedies: States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated. Specific measures include, but are not limited to, the following (articles 2 (c), (f) and 3): (i) Promulgate and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, and put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse; (ii) Repeal or amend laws that prevent women migrant workers from using the courts and other systems of redress. These include laws on loss of work permit, which results in loss of earnings and possible deportation by immigration authorities when a worker files a complaint of exploitation or abuse and while pending investigation. States parties should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse; (iii) Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid; (iv) Provide temporary shelters for women migrant workers who wish to leave abusive employers, husbands or other relatives and provide facilities for safe accommodation during trial... States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available, including language and skills training programmes, emergency shelters, health-care services, police services, recreational programmes and programmes designed especially for isolated women migrant workers, such as domestic workers and others secluded in the home, in addition to victims of domestic violence. Victims of abuse must be provided with relevant emergency and social services, regardless of their immigration status (articles 3, 5 and 12)... States parties should repeal or amend laws and practices that prevent undocumented women migrant workers from using the courts and other systems of redress</p>
<p>CESCR General comment No.22: on the right to sexual and reproductive health (2016), E/C.12/GC/22 (para.II.9)</p>	<p>The right to sexual and reproductive health...requires States to ensure employment with maternity protection and paternal leave for workers, including workers in vulnerable situations, such as migrant workers...as well as protection from sexual harassment in the workplace and prohibition of discrimination</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/C/GC/4-CRC/C/GC/23 (para.II.G.45)</p>	<p>The Committees remind States that migrant children above working age, irrespective of their status, should enjoy equal treatment to that of national children in respect of remuneration, other conditions of work and terms of employment</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/C/GC/4-CRC/C/GC/23 (para.II.G.46)</p>	<p>States should take all appropriate legislative and administrative measures, including a gender dimension, to regulate and protect the employment of migrant children with respect to the minimum age of employment and hazardous work. Given the specific risk to which migrant children are exposed, States shall also ensure that, in both law and practice, all necessary measures, including the provision of appropriate penalties, be taken by the competent authority to guarantee the effective enforcement of the provisions of the Convention on the Rights of the Child and relevant international standards and that migrant children:</p> <ul style="list-style-type: none"> • Enjoy fair terms of employment as well as decent working conditions, in line with internationally accepted standards • Enjoy specific protective measures regulating the hours and conditions under which children can work • Are subject to periodic medical examinations attesting to their fitness for work • Have access to justice in case of violation of their rights by public or private actors, including by ensuring effective complaints mechanisms and a firewall between labour rights and immigration enforcement
<p>CESCR statement on duties of States towards refugees and migrants under the International Covenant on economic, social and cultural rights (2017), E/C.12/2017/1 (para.III.13)</p>	<p>In addition to laws and policies having to ensure that migrant workers enjoy treatment that is no less favourable than that of national workers in relation to remuneration and conditions of work, specific measures of protection may have to be adopted for the benefit of undocumented workers, to ensure that any abuse of their situation of vulnerability is effectively addressed and that they do not fear filing complaints with the competent authorities</p>
<p>CESCR General comment No.24: on State obligations under the International Covenant on economic, social and cultural rights in the context of business activities (2017), E/C.12/GC/24 (para IV.B.2.57)</p>	<p>[N]on-judicial remedies should also be available in transnational settings. Examples include access by victims located outside the State's territory to that State's human rights institutions or ombudspersons as well as to complaints mechanisms established under international organizations, such as national contact points</p>
<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.VII.35)</p>	<p>Recognize that, while States may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated</p>



QUNO offices:

In Geneva:
13 Avenue du Mervelet
1209 Geneva
Switzerland

Tel: +41 22 748 4800
Fax: +41 22 748 4819
quno@quno.ch

In New York:
777 UN Plaza
New York, NY 10017
United States

Tel: +1 212 682 2745
Fax: +1 212 983 0034
qunony@afsc.org

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

For hard copies, please contact Laurel Townhead at ltownhead@quno.ch.

