



QUNO

Quaker United Nations Office

Towards a Human Rights Based
Global Compact for Safe,
Orderly and Regular Migration
Paper #4: Compilation of Agreed Language

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Contents

Introduction

1. [Ensure that human rights are at the centre of efforts to address migration, including responses to large and mixed movements](#)
2. [Counter all forms of discrimination against migrants](#)
3. [Ensure that migrants have access to justice](#)
4. [Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance](#)
5. [Ensure that all border governance measures protect human rights](#)
6. [Ensure that all returns fully respect the human rights of migrants and comply with international law](#)
7. [Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State institutions, officials, private bodies or individuals](#)
8. [Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents](#)
9. [Ensure the widest protection of the family unity of migrants; facilitate family reunification; prevent arbitrary or unlawful interference on the right of migrants to enjoy private and family life](#)
10. [Guarantee the human rights of all children in the context of migration, and ensure that child migrants are treated as children first and foremost](#)
11. [Protect the human rights of migrant women and girls](#)
12. [Ensure that all migrants enjoy the highest attainable standard of physical and mental health](#)
13. [Safeguard the right of migrants to an adequate standard of living](#)
14. [Guarantee the right of migrants to work in just and favourable conditions](#)
15. [Protect the right of migrants to education](#)
16. [Uphold migrants' right to information](#)
17. [Ensure that all responses to migration, including large or mixed movements, are monitored and accountable](#)
18. [Respect and support the activities of human rights defenders and others who rescue, protect and provide assistance to migrants](#)
19. [Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy](#)
20. [Ensure human-rights based and gender responsive migration governance](#)

Introduction

QUNO is working to support the adoption of an ambitious, effective and human rights based Global Compact for Safe, Orderly and Regular Migration.

The Compact must build on the commitments that States have already made in international human rights law. The Secretary-General's report notes that '(m)ember States have made numerous relevant commitments in an extensive body of international law, including the core human rights instruments and standards, and in multiple recent declarations and agreements. But all too often, policy implementation lags behind the ambitions of Member States. The global compact offers a chance to bridge this divide'.¹ The Compact is therefore the opportunity for States to strengthen the implementation of International Human Rights Law.

This compilation contains agreed language from treaty law, General Assembly (GA) resolutions and Human Rights Council (HRC) resolutions. It has been compiled to assist State representatives to ensure that the Global Compact for Migration does not fall below or undermine existing standards

¹ United Nations, 'Making migration work for all – Report of the Secretary-General', 12 December 2017, A/72/643, https://refugeesmigrants.un.org/sites/default/files/sg_report_en.pdf, para. 2.

1. Ensure that human rights are at the centre of efforts to address migration, including responses to large and mixed movements.

“we will ensure a people-centred, sensitive, humane, dignified, gender-responsive and prompt reception for all persons arriving in our countries, and particularly those in large movements, whether refugees or migrants. We will also ensure full respect and protection for their human rights and fundamental freedoms.”

- Para. 22, New York Declaration for Refugees and Migrants

In each of the resolutions within this section, States have agreed that when responding to migration issues they:

‘have a 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’.

Crucially, States have agreed within these resolutions that they will uphold the human rights of migrants regardless of their status, an example being paragraph 5 of the [New York Declaration](#) which states that:

‘We reaffirm and will fully protect the human rights of all refugees and migrants, regardless of status; all are rights holders.’

The duty upon States to adopt a human rights based approach towards migrants regardless of their status is exemplified by paragraph 9 of the [Protection of the human rights of migrants](#) resolution which:

‘Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination’

Treaty Law

[International Covenant on Civil and Political Rights, 16 December 1966](#)

Art. 12(2):

Everyone shall be free to leave any country, including his own.

[Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000](#)

Art. 14:

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

[Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000](#)

Art. 5:

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a). Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

- (b). Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
- (c). Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

Art. 19(1):

Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

General Assembly Resolutions

New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016

Paras. 5 and 41:

5. We reaffirm the purposes and principles of the Charter of the United Nations. We reaffirm also the Universal Declaration of Human Rights and recall the core international human rights treaties. We reaffirm and will fully protect the human rights of all refugees and migrants, regardless of status; all are rights holders. Our response will demonstrate full respect for international law and international human rights law and, where applicable, international refugee law and international humanitarian law.

41. We are committed to protecting the safety, dignity and human rights and fundamental freedoms of all migrants, regardless of their migratory status, at all times. We will cooperate closely to facilitate and ensure safe, orderly and regular migration, including return and readmission, taking into account national legislation.

Protection of Migrants, Resolution adopted on 17 December 2015, A/RES/70/147, 25 February 2016

Paras. 3(c) and 3(d):

(c). Expresses concern about legislation adopted by some States that results in measures and practices 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;

(d). Calls upon States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime, such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

[Violence Against Women Migrant Workers, Resolution 70/130 adopted on 17 December 2015, A/RES/70/130, 8 February 2016](#)

Para. 6:

Calls upon all Governments to incorporate a human rights, gender sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, exploitation and abuse, to take effective measures to ensure that such migration and labour policies do not reinforce discrimination, and, where necessary, to conduct impact assessment studies of such legislation, policies and programmes in order to identify the impact of measures taken and the results achieved in regard to women migrant workers;

[Human Rights Council Resolutions](#)

[Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/32/14, 15 July 2016](#)

Paras. 7 and 9:

7. Expresses concern at legislation and measures adopted by some States that may adversely affect the full enjoyment of the human rights and fundamental freedoms of migrants, including those in transit;

9. Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination;

[Human Rights of Migrants, A/HRC/23/20, 26 June 2013](#)

Para. 3:

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 migration 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 all migrants;

[Human Rights of Migrants, A/HRC/RES/20/3, 16 July 2012](#)

Preambular para. 4 and para. 1:

4. Stressing the obligation of States to protect the human rights of migrants, regardless of their legal status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party,

1. Reaffirms the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

2. Counter all forms of discrimination against migrants

'All human beings are born free and equal in dignity and rights. Everyone has the right to recognition everywhere as a person before the law.'

- Para. 13, New York Declaration for Refugees and Migrants

Central to international human rights law is the principle that no person may be discriminated against for any reason. There are only two rights where a distinction is made between nationals and non-nationals. These are Article 25 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) which states that only citizens are entitled to vote and Article 12 of the [ICCPR](#) which provides that foreign nationals shall enjoy freedom of movement provided they are lawfully present in the country. However, the Human Rights Committee has clarified in General Comment 15 that the human rights of foreign nationals are still guaranteed regardless of their status when issues of discrimination, inhumane treatment or respect for family life arise. So apart from these small exceptions, the International Human Rights Law fully applies to migrants regardless of their status.

The General Assembly and the Human Rights Council have both passed resolutions that urge States to take steps to combat discrimination against migrants. For example, States agreed in the [New York Declaration](#) that they:

'will take a range of steps to counter such attitudes and behaviour, in particular with regard to hate crimes, hate speech and racial violence'.

The [Protection of Migrants, Resolution 70/147](#) adopted by the General Assembly in 2015 urges States to:

'apply and, where needed, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims'.

Similarly, paragraph 9 of the '[Protection of the human rights of migrants](#)' resolution adopted by the Human Rights Council in 2016:

'Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination'.

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 18:

- 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.**
- 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.**
- 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.**
- 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.**

Art. 20(2):

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 12:

- 1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.**
- 2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.**

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 13, 14 and 31:

13. All human beings are born free and equal in dignity and rights. Everyone has the right to recognition everywhere as a person before the law. We recall that our obligations under international law prohibit discrimination of any kind on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Yet in many parts of the world we are witnessing, with great concern, increasingly xenophobic and racist responses to refugees and migrants.

14. We strongly condemn acts and manifestations of racism, racial discrimination, xenophobia and related intolerance against refugees and migrants, and the stereotypes often applied to them, including on the basis of religion or belief. Diversity enriches every society and contributes to social cohesion. Demonizing refugees or migrants offends profoundly against the values of dignity and equality for every human being, to which we have committed ourselves. Gathered today at the United Nations, the birthplace and custodian of these universal values, we deplore all manifestations of xenophobia, racial discrimination and intolerance. We will take a range of steps to counter such attitudes and behaviour, in particular with regard to hate crimes, hate speech and racial violence. We welcome the global campaign proposed by the Secretary-General to counter xenophobia and we will implement it in cooperation with the United Nations and all relevant stakeholders, in accordance with international law. The campaign will emphasize, inter alia, direct personal contact between host communities and refugees and migrants and will highlight the positive contributions made by the latter, as well as our common humanity.

31. We will ensure that our responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls. We will combat sexual and gender-based violence to the greatest extent possible. We will provide access to sexual and reproductive health-care services. We will tackle the multiple and intersecting forms of discrimination against

refugee and migrant women and girls. At the same time, recognizing the significant contribution and leadership of women in refugee and migrant communities, we will work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities. We will take into consideration the different needs, vulnerabilities and capacities of women, girls, boys and men.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 5.1, 10.2, 10.3 and 16(b) and para. 23, 29 and 36:

5.1. End all forms of discrimination against all women and girls everywhere

10.2. By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

10.3. Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard

16(b). Promote and enforce non-discriminatory laws and policies for sustainable development

23. People who are vulnerable must be empowered. Those whose needs are reflected in the Agenda include all children, youth, persons with disabilities (of whom more than 80 per cent live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants. We resolve to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism.

29. We recognize the positive contribution of migrants for inclusive growth and sustainable development. We also recognize that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. We will cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees, particularly in developing countries. We underline the right of migrants to return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received.

36. We pledge to foster intercultural understanding, tolerance, mutual respect and an ethic of global citizenship and shared responsibility. We acknowledge the natural and cultural diversity of the world and recognize that all cultures and civilizations can contribute to, and are crucial enablers of, sustainable development.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 3:

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:

(a) Strongly condemns acts, manifestations and expressions 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, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 3(a):

Strongly condemns acts, manifestations and expressions 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, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

[Promoting efforts to eliminate violence against migrants, migrant workers and their families, Resolution 67/185 adopted on 20 December 2012, A/RES/67/185, 12 March 2013](#)

Para. 5:

Also encourages Member States that have not already done so to enact national legislation and to take other appropriate measures to combat criminal acts of racism, discrimination, xenophobia and related intolerance, including steps to reduce the vulnerability of migrants to crime and to increase their engagement with host societies, consistent with national law;

[General Assembly Resolution 65/230, Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, A/RES/65/230, 1 April 2011](#)

Para. 38:

We affirm our determination to eliminate violence against migrants, migrant workers and their families, and we call upon Member States to adopt measures for preventing and addressing effectively cases of such violence and to ensure that those individuals receive humane and respectful treatment from States, regardless of their status. We also invite Member States to take immediate steps to incorporate into international crime prevention strategies and norms measures to prevent, prosecute and punish crimes involving violence against migrants, as well as violence associated with racism, xenophobia and related forms of intolerance. We invite the Commission on Crime Prevention and Criminal Justice to consider this issue further in a comprehensive manner.

[United Nations Millennium Declaration, A/RES/55/2, 18 September 2000](#)

Para. 25:

We resolve therefore (...) to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.

Human Rights Council Resolutions

[The right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development, A/HRC/RES/35/23, 12 July 2017](#)

Preamble and para 4 and 7:

Recognizing the need for States to address the social, economic and environmental determinants of health, as well as to address holistically a range of barriers arising from inequality and discrimination that impede access to health-care services,

4. Also urges States to bring their laws, policies and practices, including their strategies towards the implementation of the health-related Sustainable Development Goals, fully into compliance with their obligations under international human rights law, and to review and, where necessary, repeal those that are discriminatory;

7. Further encourages States to empower users of health-care services to know and demand their rights, including through health and human rights literacy, and to provide human rights education and training for health workers, with special focus on non-discrimination, free and informed consent, confidentiality, privacy and the duty to provide treatment, and to exchange best practices in this regard;

[Human rights and climate change, A/HRC/RES/35/20, 7 July 2017](#)

Preamble and paras 6, 7, 9 and 15:

Recognizing the particular vulnerabilities of migrants and other non-nationals who may face challenges associated with implementing appropriate responses in extreme weather conditions owing to their status and who may have limited access to information and services, resulting in barriers to the full enjoyment of their human rights,

Calling upon States to integrate, as appropriate, human rights in their climate actions at all levels, including their national action plans for climate change adaptation and mitigation,

6. Calls upon States to continue and enhance international cooperation and assistance for adaptation measures to help developing countries, especially those that are particularly vulnerable to the adverse effects of climate change as well as persons in vulnerable situations, including migrants and persons displaced across international borders in the context of the adverse impact of climate change;

7. Notes the urgency of protecting and promoting human rights of migrants and persons displaced across international borders, in the context of the adverse impact of climate change, including those from small island developing States and least developed countries;

9. Recognizes that climate change-related human mobility and human rights are cross-cutting in nature;

15. Calls upon States to integrate a gender perspective in pursuing mitigation and adaptation responses to the adverse impact of climate change on the full and effective enjoyment of human rights, including those of migrants and persons displaced across international borders in the context of the adverse impact of climate change;

[Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, A/HRC/RES/35/17, 22 June 2017](#)

Para. 8:

Reaffirms the duty of States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, including those of women and children at risk, especially unaccompanied migrant children or children separated from their families, persons with disabilities and those who are discriminated against on any basis, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

[Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/RES/32/14, 15 July 2016](#)

Para. 9 and 10:

9. Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination;

10. Also calls upon all States to promote and protect the human rights of all migrants, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, including those in a vulnerable situation, regardless of their immigration status, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate;

[Protection of the human rights of migrants: migrants in transit, A/HRC/RES/29/2, 22 July 2015](#)

Para. 7(a):

To promote and protect the human rights of all migrants, including migrants in transit, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity;

3. Ensure that migrants have access to justice

“Promote the rule of law at the national and international levels and ensure equal access to justice for all”

- SDG Target 16.3, Transforming our World: the 2030 Agenda for Sustainable Development

Ensuring equal access to justice is enshrined in international human rights law, including in Article 7 of the [Universal Declaration of Human Rights](#) which provides that *‘All are equal before the law and are entitled without any discrimination to equal protection of the law’*. Likewise, article 14 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) states that:

‘everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law’.

More specifically both Article 14 of the [ICCPR](#) and Article 18 of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) contain the same provisions relating to what a fair trial procedure entails including the defendants right to be informed of their charge promptly, in a language they understand and free access to an interpreter if they do not understand the language being spoken in court.

In resolutions that have been passed by both the General Assembly and the Human Rights Council, States have agreed to ensure that migrants have the right to an effective remedy if their human rights are violated. For example, OP 3(a) of the [Protection of Migrants](#) resolution passed by the General Assembly in 2017:

‘urges States to apply and, where needed, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims’

Similarly, the [Violence Against Women Migrant Workers](#) resolution passed by the assembly in 2018 calls on governments to put in place *‘gender-sensitive redress and justice mechanisms that victims can access effectively’*.

Treaty Law

Universal Declaration of Human Rights, 10 December 1948

Art. 7:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art. 8:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

International Covenant on Civil and Political Rights, 16 December 1966

Art. 2(1):

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Art. 3:

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Art 14:

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be

made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a). To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b). To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
- (c). To be tried without undue delay;
- (d). To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e). To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f). To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g). Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Art. 26:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979

Art. 1:

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Art. 3:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Art. 15:

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

[Convention on the Rights of the Child, 20 November 1989](#)

Art. 40(2)(b)(ii):

To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 18:

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

- (a). To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;**
- (b). To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;**
- (c). To be tried without undue delay;**
- (d). To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;**
- (e). To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;**
- (f). To have the free assistance of an interpreter if they cannot understand or speak the language used in court;**
- (g). Not to be compelled to testify against themselves or to confess guilt.**

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

[Convention on the Rights of Persons with Disabilities, 13 December 2006](#)

Art. 5:

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Art. 13:

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 39:

We commit to combating xenophobia, racism and discrimination in our societies against refugees and migrants. We will take measures to improve their integration and inclusion, as appropriate, and with particular reference to access to education, health care, justice and language training. We recognize that these measures will reduce the risks of marginalization and radicalization...

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 16.3 and 16.10:

16.3. Promote the rule of law at the national and international levels and ensure equal access to justice for all

16.10. Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Paras. 3(a) and (b):

3(a). Strongly condemns acts, manifestations and expressions 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, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

3(b). Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Paras. 27 and 28:

27. Also calls upon Governments to ensure that legislative provisions and judicial processes are in place to provide women migrant workers access to justice, to enhance, develop or maintain legal frameworks and specific gender-sensitive policies

to explicitly meet their needs and rights and, where necessary, to take appropriate steps to reform existing legislation and policies to capture their needs and protect their rights;

28. Further calls upon Governments, in particular those of the countries of origin and destination, to put in place penal and criminal sanctions, in order to punish perpetrators of violence against women migrant workers and intermediaries, and gender-sensitive redress and justice mechanisms that victims can access effectively and that allow their views and concerns to be presented and considered at appropriate stages of proceedings, including other measures that will allow victims to be present during the judicial process, when possible, and to protect women migrant workers who are victims of violence from revictimization, including by authorities;

[Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, 21 March 2005](#)

Para. 15:

Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

[Basic Principles on the Role of Lawyers, \(adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Havana, Cuba and welcomed by the General Assembly in Resolution 45/166 of 18 December 1990\)](#)

Principles 1 and 2:

1. All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.
2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind,

such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

Human Rights Council Resolutions

[Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/29/6, 30 June 2015](#)

Paras. 6 and 9:

6. Further encourages States to consider, in collaboration with relevant national entities such as bar associations, associations of judges and prosecutors, and educational institutions assisting the judiciary, developing guidance on issues such as gender, children, persons with disabilities, indigenous peoples, and migrants, among others, to inform the action of judges, lawyers, prosecutors and other actors in the judicial system;

9. Calls upon States, in collaboration with relevant national entities such as bar associations, associations of judges and prosecutors, and educational institutions, to provide adequate training, including human rights training, for judges, prosecutors and lawyers, both on initial appointment and periodically throughout their careers, taking into account regional and international human rights law and, where applicable and relevant, the concluding observations and decisions of human rights mechanisms, such as treaty bodies and regional human rights courts;

4. Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance

“We commit to intensifying international cooperation on the strengthening of search and rescue mechanisms. We will also work to improve the availability of accurate data on the whereabouts of people and vessels stranded at sea. In addition, we will strengthen support for rescue efforts over land along dangerous or isolated routes.”

- Para. 28, New York Declaration for Refugees and Migrants

In signing the [New York Declaration](#), States agreed to take steps to ensure that migrants no longer have to make dangerous journeys in order to cross a border. This is exemplified by paragraph 10 of the [Declaration](#) which states that ‘*We are determined to save lives. Our challenge is above all moral and humanitarian.*’

The obligation for States to take all appropriate measures to protect those whose lives are at risk is enshrined international human law. This includes any person whose life is in danger at sea as Article 98(1)(a) and (b) of the [United Nations Convention on the Law of the Sea](#) provide that;

‘Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers;

(a). to render assistance to any person found at sea in danger of being lost;

(b). to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance ...’

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 6(1):

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

United Nations Convention on the Law of the Sea, 10 December 1982

Part VII, Art. 98:

(1). Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

(2). Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 28:

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000

Art. 6:

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

(a). The smuggling of migrants;

(b). When committed for the purpose of enabling the smuggling of migrants:

(i). Producing a fraudulent travel or identity document;

(ii). Procuring, providing or possessing such a document;

(c). Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a). Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b). Participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;

(c). Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to

the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:

(a). That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or

(b). That entail inhuman or degrading treatment, including for exploitation, of such migrants.

4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

Art. 8(5):

A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

Art. 16(1)-(4):

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 10, 28, 35 and Annex I, paras. 5(a) and 5(e) and Annex II, para. 8(I):

10. We are determined to save lives. Our challenge is above all moral and humanitarian. Equally, we are determined to find long-term and sustainable solutions. We will combat with all the means at our disposal the abuses and exploitation suffered by countless refugees and migrants in vulnerable situations.

27. We are determined to address unsafe movements of refugees and migrants, with particular reference to irregular movements of refugees and migrants. We will do so without prejudice to the right to seek asylum. We will combat the exploitation, abuse and discrimination suffered by many refugees and migrants.

28. We express our profound concern at the large number of people who have lost their lives in transit. We commend the efforts already made to rescue people in distress at sea. We commit to intensifying international cooperation on the strengthening of search and rescue mechanisms. We will also work to improve the availability of accurate data on the whereabouts of people and vessels stranded at sea. In addition, we will strengthen support for rescue efforts over land along dangerous or isolated routes. We will draw attention to the risks involved in the use of such routes in the first instance.

35. We recognize that refugees and migrants in large movements are at greater risk of being trafficked and of being subjected to forced labour. We will, with full respect for our obligations under international law, vigorously combat human trafficking and migrant smuggling with a view to their elimination, including through targeted measures to identify victims of human trafficking or those at risk of trafficking. We will provide support for the victims of human trafficking. We will work to prevent human trafficking among those affected by displacement.

Annex I, 5(a). Ensure, to the extent possible, that measures are in place to identify persons in need of international protection as refugees, provide for adequate, safe and dignified reception conditions, with a particular emphasis on persons with specific needs, victims of human trafficking, child protection, family unity, and prevention of and response to sexual and gender-based violence, and support the critical contribution of receiving communities and societies in this regard;

5(e). Use the registration process to identify specific assistance needs and protection arrangements, where possible, including but not exclusively for refugees with special protection concerns, such as women at risk, children, especially unaccompanied children and children separated from their families, child-headed and single-parent households, victims of trafficking, victims of trauma and survivors of sexual violence, as well as refugees with disabilities and older persons;

Annex II, para. 8(I). Effective protection of the human rights and fundamental freedoms of migrants, including women and children, regardless of their migratory status, and the specific needs of migrants in vulnerable situations;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 5(k):

Urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including unaccompanied children and persons with disabilities, and take into account, in conformity with their international obligations and commitments, the principle of the best interests of the child, clarity of reception and care arrangements and family reunification

Human Rights Council Resolutions

[Trafficking in persons, especially women and children: protecting victims of trafficking and people at risk of trafficking, especially women and children in conflict and post-conflict situations, A/HRC/32/3, 20 July 2016](#)

Para. 2(f) and 3:

2(f). To train all stakeholders, including humanitarian personnel working in conflict zones and in refugee camps, to identify potential cases of trafficking and those individuals at risk of being trafficked;

3. Invites relevant United Nations agencies, funds and programmes, international organizations and humanitarian actors to take into account, as appropriate, the recommendations in the report of the Special Rapporteur on trafficking in persons, especially women and children, in order to identify promptly possible cases of trafficking in persons and to pursue human rights-based anti-trafficking responses in conflict, post conflict, disaster and other emergency situations;

[Protection of the human rights of migrants: migrants in transit, A/HRC/29/2, 22 July 2015](#)

Para. 7(f):

To ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations;

5. Ensure that all border governance measures protect human rights

“Recognizing that States have rights and responsibilities to manage and control their borders, we will implement border control procedures in conformity with applicable obligations under international law, including international human rights law and international refugee law.

- Para. 24, New York Declaration for Refugees and Migrants

Repeated within a number of resolutions passed by the General Assembly and the Human Rights Council (HRC) is the request for States to take steps to ensure the protection of migrant’s human rights at national borders. For example the exact language quoted above is also repeated in the [Protection of the human rights of migrants: migrants in transit](#) resolution passed by the HRC in 2015.

While States have the sovereign prerogative to manage their borders, this is not unlimited. States have agreed in the [New York Declaration](#), the [Protection of migrants](#) resolution adopted by the General Assembly in 2015 and in two separate resolutions passed by the HRC 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’.

States have also committed to ensuring border officials are trained in human rights law, exemplified by paragraph 7(d) of the [Protection of the human rights of migrants: migrants in transit](#) resolution which calls upon States to

‘adequately train public officials who work in those facilities and in border areas to treat these migrants respectfully and in accordance with their obligations under international human rights law’.

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 12:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Art. 13:

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 21:

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family

Art. 22:

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.
2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.
3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.
4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.
5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.
6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.
7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.
8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.
9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

[Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000](#)

Art. 5:

A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 24, 25, 35, 56, 58 and Annex I, paras. 5(a) and 5(e) and Annex II, para. 8(l):

24. Recognizing that States have rights and responsibilities to manage and control their borders, we will implement border control procedures in conformity with applicable obligations under international law, including international human rights law and international refugee law. We will promote international cooperation on border control and management as an important element of security for States, including issues relating to battling transnational organized crime, terrorism and illicit trade. We will ensure that public officials and law enforcement officers who work in border areas are trained to uphold the human rights of all persons crossing, or seeking to cross, international borders. We will strengthen international border management cooperation, including in relation to training and the exchange of best practices. We will intensify support in this area and help to build capacity as appropriate. We reaffirm that, in line with the principle of non-refoulement, individuals must not be returned at borders. We acknowledge also that, while upholding these obligations and principles, States are entitled to take measures to prevent irregular border crossings.

25. We will make efforts to collect accurate information regarding large movements of refugees and migrants. We will also take measures to identify correctly their nationalities, as well as their reasons for movement. We will take measures to identify those who are seeking international protection as refugees.

35. We recognize that refugees and migrants in large movements are at greater risk of being trafficked and of being subjected to forced labour. We will, with full respect for our obligations under international law, vigorously combat human trafficking and migrant smuggling with a view to their elimination, including through targeted measures to identify victims of

human trafficking or those at risk of trafficking. We will provide support for the victims of human trafficking. We will work to prevent human trafficking among those affected by displacement.

56. We affirm that children should not be criminalized or subject to punitive measures because of their migration status or that of their parents.

58. We strongly encourage cooperation among countries of origin or nationality, countries of transit, countries of destination and other relevant countries in ensuring that migrants who do not have permission to stay in the country of destination can return, in accordance with international obligations of all States, to their country of origin or nationality in a safe, orderly and dignified manner, preferably on a voluntary basis, taking into account national legislation in line with international law. We note that cooperation on return and readmission forms an important element of international cooperation on migration. Such cooperation would include ensuring proper identification and the provision of relevant travel documents. Any type of return, whether voluntary or otherwise, must be consistent with our obligations under international human rights law and in compliance with the principle of non-refoulement. It should also respect the rules of international law and must in addition be conducted in keeping with the best interests of children and with due process. While recognizing that they apply only to States that have entered into them, we acknowledge that existing readmission agreements should be fully implemented. We support enhanced reception and reintegration assistance for those who are returned. Particular attention should be paid to the needs of migrants in vulnerable situations who return, such as children, older persons, persons with disabilities and victims of trafficking.

Annex I, 5(a). Ensure, to the extent possible, that measures are in place to identify persons in need of international protection as refugees, provide for adequate, safe and dignified reception conditions, with a particular emphasis on persons with specific needs, victims of human trafficking, child protection, family unity, and prevention of and response to sexual and gender-based violence, and support the critical contribution of receiving communities and societies in this regard;

5(e). Use the registration process to identify specific assistance needs and protection arrangements, where possible, including but not exclusively for refugees with special protection concerns, such as women at risk, children, especially unaccompanied children and children separated from their families, child-headed and single-parent households, victims of trafficking, victims of trauma and survivors of sexual violence, as well as refugees with disabilities and older persons;

Annex II, para. 8(I). Effective protection of the human rights and fundamental freedoms of migrants, including women and children, regardless of their migratory status, and the specific needs of migrants in vulnerable situations;

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 10.7 and para. 29:

10.7. Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies

29. We recognize the positive contribution of migrants for inclusive growth and sustainable development. We also recognize that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. We will cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees, particularly in developing countries. We underline the right of migrants to return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(e), (i) and 5(c):

(e). Requests States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, and to adequately train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with their obligations under international human rights law;

(i). Recognizes the particular vulnerability of migrants in transit situations, including through national borders, and the need to ensure full respect for their human rights also in these circumstances;

(c), Calls upon States, within the framework of applicable international law, to take steps to ensure that their national procedures at international borders include adequate safeguards to protect the dignity, safety and human rights of all migrants;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Paras. 30:

30. Encourages Governments to formulate, implement and refine training programmes for their law enforcement officials, immigration officers and border officials, diplomatic and consular officials, judiciary, prosecutors, public sector medical staff and other service providers, with a view to sensitizing those public sector workers to the issue of violence against women migrant workers and imparting to them the necessary skills and attitude to ensure the delivery of proper, professional and gender-sensitive interventions, including for those in detention facilities;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 3(c):

Expresses concern about legislation adopted by some States that results in measures and practices 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;

[Trafficking in women and girls, Resolution 69/149 adopted on 18 December 2014, A/RES/69/149, 10 February 2015](#)

Paras. 34 and 35:

34. Urges Governments to provide or strengthen training for, and to raise awareness among, law enforcement, judicial, immigration and other relevant officials on the prevention and combating of trafficking in persons, including the sexual exploitation of women and girls, and in this regard calls upon Governments to ensure that the treatment of victims of trafficking, especially by law enforcement officials, immigration officers, consular officials, social workers and other first response officials, is conducted with full respect for the human rights of those victims and with gender and age sensitivity and observes the principles of non-discrimination, including the prohibition of racial discrimination;

35. Invites Member States to provide training for law enforcement and border control officials, as well as medical personnel, in identifying potential cases of trafficking in persons for the purpose of organ removal;

[Promoting efforts to eliminate violence against migrants, migrant workers and their families, Resolution 67/185 adopted on 20 December 2012, A/RES/67/185, 12 March 2013](#)

Para. 10:

Also urges Member States to provide specialized training, as appropriate, for law enforcement, border control, immigration and other concerned officials to better equip them to identify and deal with issues related to violence against migrants, including in cooperation with non-governmental organizations and civil society;

[Protection of Migrants, Resolution 66/172 adopted on 19 December 2011, A/RES/66/172, 29 March 2012](#)

Para. 4(e):

Requests States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

[Human Rights Council Resolutions](#)

[Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, A/HRC/RES/35/17, 22 June 2017](#)

Para. 10:

Reaffirms that, while States have the sovereign right to enact and implement migration and border security measures, they have a duty to comply with their obligations under relevant international law, including international human rights law and refugee law, in order to ensure full respect for the human rights of migrants, including migrants in a vulnerable situation;

[Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/RES/32/14, 15 July 2016](#)

Para. 8:

Reaffirms that, when exercising their sovereign right to enact and implement migration and border security measures, States have a duty to comply with their obligations under relevant international law, including international human rights law, in order to ensure full respect for the human rights of migrants, including migrants in a vulnerable situation;

[Protection of the human rights of migrants: migrants in transit, A/HRC/29/2, 22 July 2015](#)

Para. 7(d):

To adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and other transit areas for migration, and to adequately train public officials who work in those facilities and in border areas to treat these migrants respectfully and in accordance with their obligations under international human rights law;

[Human Rights of Migrants, A/HRC/RES/20/3, 16 July 2012](#)

Preambular para. 5:

Reaffirms that, when exercising their sovereign right to enact and implement migration 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;

6. Ensure that all returns fully respect the human rights of migrants and comply with international law

“We reaffirm that everyone has the right to leave any country, including his or her own, and to return to his or her country. We recall at the same time that each State has a sovereign right to determine whom to admit to its territory, subject to that State’s international obligations. We recall also that States must readmit their returning nationals and ensure that they are duly received without undue delay, following confirmation of their nationalities in accordance with national legislation.”

- Para. 42, New York Declaration for Refugees and Migrants

Although States have the sovereign prerogative to determine who enters and remains within their borders is not unlimited. Article 3(1) of the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) states that:

‘No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture’.

It is made clear in the [New York Declaration](#) and Article 22 of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#), that decisions relating to returns have to follow a fair legal procedure. Article 22 provides that:

‘Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually’.

The rest of the article sets out the requirements for such a process including the migrant’s right to be receive the decision in a language they understand, *‘to have his or her case reviewed by the competent authority’* and right to *‘seek entry into a State other than his or her State of origin’* if they are expelled from their original host State.

Treaty Law

[Convention Relating to the Status of Refugees, 28 July 1951](#)

Art. 33:

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

[International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965](#)

Art. 6:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

[International Covenant on Civil and Political Rights, 16 December 1966](#)

Art. 2(3):

Each State Party to the present Covenant undertakes:

- (a). To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b). To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c). To ensure that the competent authorities shall enforce such remedies when granted.

Art. 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Art. 12(4):

No one shall be arbitrarily deprived of the right to enter his own country.

Art. 13:

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984

Art. 3:

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Art. 14:

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Convention on the Rights of the Child, 20 November 1989

Art. 10(2):

A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Art. 19(2):

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 22:

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.
2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.
3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.
4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.
6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.
7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.
8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.
9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

[Convention on the Rights of Persons with Disabilities, 13 December 2006](#)

Art. 18(1)(c):

Are free to leave any country, including their own;

[International Convention for the Protection of All Persons from Enforced Disappearance, 6 February 2007](#)

Art. 16(1):

No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 42:

We commit to safeguarding the rights of, protecting the interests of and assisting our migrant communities abroad, including through consular protection, assistance and cooperation, in accordance with relevant international law. We reaffirm that everyone has the right to leave any country, including his or her own, and to return to his or her country. We recall at the same time that each State has a sovereign right to determine whom to admit to its territory, subject to that State's international obligations. We recall also that States must readmit their returning nationals and ensure that they are duly received without undue delay, following confirmation of their nationalities in accordance with national legislation. We will take measures to inform migrants about the various processes relating to their arrival and stay in countries of transit, destination and return.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

Para. 29:

We recognize the positive contribution of migrants for inclusive growth and sustainable development. We also recognize that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. We will cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees, particularly in developing countries. We underline the right of migrants to return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(g) and (h):

(g). Calls upon States to analyse and implement, where appropriate, mechanisms for the safe and orderly administration of returning migrants, with particular attention to the human rights of migrants, in accordance with their obligations under international law;

(h). Also calls upon States to prosecute, in conformity with applicable law, acts of violation of the human rights of migrants and their families, such as arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from the country of origin to the country of destination and vice versa, including transit across national borders;

[Declaration of the High-level Dialogue on International Migration and Development, Resolution 68/4 adopted on 3 October 2013, A/RES/68/4, 21 January 2014](#)

Paras. 13 and 24:

- 13. Express the commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide for their health, education and psychosocial development, ensuring that the best interests of the child are a primary consideration in policies of integration, return and family reunification;
- 24. Underline the right of migrants to return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received;

[Human Rights Council Resolutions](#)

[Migrants and asylum-seekers fleeing from events in North Africa, A/HRC/17/22, 15 June 2011](#)

Paras. 2 and 5:

- 2. Also expresses its alarm at the fact that, after having been compelled to make dangerous journeys, including in crowded and unsafe boats, the above-mentioned migrants are subjected to life-threatening exclusion, detention, rejection and xenophobia;
- 5. Reaffirms the need to respect the humanitarian principle of non-refoulement from territorial waters and lands for the thousands of people fleeing the events in the North African region;

7. Protect migrants from torture and all forms of violence and exploitation whether inflicted by State institutions, officials, private bodies or individuals

“We stress the importance of addressing the immediate needs of persons who have been exposed to physical or psychological abuse while in transit upon their arrival, without discrimination and without regard to legal or migratory status or means of transportation.”

- Para. 26, New York Declaration for Refugees and Migrants

The prohibition of torture is a peremptory norm of international law. In order to address the ‘immediate needs’ of migrants who have been exposed to physical or psychological abuse while in transit, it was agreed in paragraph 26 of the [New York Declaration](#) that States will:

‘consider appropriate support to strengthen, at their request, capacity-building for countries that receive large movements of refugees and migrants’.

The [2030 Agenda](#) also contained many commitments to end slavery, reduce violence and eradicate labour exploitation. For example, to meet SDG target 8.7 States must:

‘Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour including recruitment and use of child soldiers, and by 2025 end child labour in all its forms’.

As a means to preventing trafficking, the Human Rights Council’s [‘Trafficking in persons, especially women and children’](#) resolution adopted in 2016 calls on States to establish:

‘safe and regular channels of migration, respecting the principle of non-refoulement and, as appropriate, examining possibilities for their access to the labour market in the host country’.

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Art. 8:

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3(a). No one shall be required to perform forced or compulsory labour;

(b). Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c). For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i). Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii). Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii). Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv). Any work or service which forms part of normal civil obligations.

International Covenant on Economic, Social and Cultural Rights, 16 December 1966

Art. 6(1):

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Art. 7:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i). Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii). A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b). Safe and healthy working conditions;

(c). Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d). Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Art. 10(3):

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

[Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979](#)

Art. 6:

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984](#)

Art. 1:

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Art. 2(1):

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

[Convention on the Rights of the Child, 20 November 1989](#)

Art. 19(1):

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Art. 32(1):

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Art. 34:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a). The inducement or coercion of a child to engage in any unlawful sexual activity;**
- (b). The exploitative use of children in prostitution or other unlawful sexual practices;**
- (c). The exploitative use of children in pornographic performances and materials.**

Art. 35:

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Art. 36:

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

[Convention on the Rights of Persons with Disabilities, 13 December 2006](#)

Art. 16:

- 1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.**
- 2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.**
- 3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.**

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 26, 31, 59 and annex II, para. 8(o):

26. We will continue to protect the human rights and fundamental freedoms of all persons, in transit and after arrival. We stress the importance of addressing the immediate needs of persons who have been exposed to physical or psychological abuse while in transit upon their arrival, without discrimination and without regard to legal or migratory status or means of transportation. For this purpose, we will consider appropriate support to strengthen, at their request, capacity-building for countries that receive large movements of refugees and migrants.

31. We will ensure that our responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls. We will combat sexual and gender-based violence to the greatest extent possible. We will provide access to sexual and reproductive health-care services. We will tackle the multiple and intersecting forms of discrimination against refugee and migrant women and girls. At the same time, recognizing the significant contribution and leadership of women in refugee and migrant communities, we will work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities. We will take into consideration the different needs, vulnerabilities and capacities of women, girls, boys and men.

59. We reaffirm our commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide access to basic health, education and psychosocial services, ensuring that the best interests of the child is a primary consideration in all relevant policies.

Annex II, para. 8(o). Promotion, as appropriate, of the inclusion of migrants in host societies, access to basic services for migrants and gender-responsive services;

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 5.2, 5.3, 8.7, 8.8, 16.1 and 16.2 and paras. 8, 20 and 27:

5.2. Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

5.3. Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation

8.7. Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms

8.8. Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

16.1. Significantly reduce all forms of violence and related death rates everywhere

16.2. End abuse, exploitation, trafficking and all forms of violence against and torture of children

8. We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed. A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.

20. ... Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels. All forms of discrimination and violence against women and girls will be eliminated, including through the engagement of men and boys ...

27. ... We will eradicate forced labour and human trafficking and end child labour in all its forms. All countries stand to benefit from having a healthy and well-educated workforce with the knowledge and skills needed for productive and fulfilling work and full participation in society

Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018

Para. 3(d), 4(c), 4(d), 7, 8, 9(d) and (e):

(d). Calls upon States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime, such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

(c). Also encourages States to cooperate and to take appropriate measures, in full conformity with their obligations under international human rights law, to prevent, combat and address the smuggling of migrants, including strengthening laws, policies, information-sharing and joint operational functions, enhancing capacities and support opportunities for migration in a well-managed, safe and dignified manner and strengthening legislative methods for criminalizing acts of smuggling migrants, particularly women and children;

(d). Urges all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

7. Also encourages States to protect migrants from becoming victims of national and transnational organized crime, including kidnapping and trafficking and, in some instances, smuggling, including through the implementation of programmes and policies that prevent victimization and guarantee protection and access to medical, psychosocial and legal assistance, where appropriate;

8. Encourages Member States that have not already done so to enact national legislation and to take further effective measures to combat trafficking in persons and smuggling of migrants, recognizing that these crimes may endanger the lives of migrants or subject them to harm, servitude, exploitation, debt bondage, slavery, sexual exploitation or forced labour, and also encourages Member States to strengthen international cooperation to prevent, investigate and combat such trafficking in persons and smuggling of migrants and to identify and disrupt financial flows related to these activities;

(d) Further encourages States to cooperate effectively in protecting witnesses in cases of smuggling of migrants, regardless of their migration status;

(e) Encourages States to cooperate effectively in protecting witnesses and victims in cases of trafficking in persons, regardless of their migration status;

[Improving the coordination of efforts against trafficking in persons, Resolution adopted on 19 December 2017, A/RES/72/195, 23 January 2018](#)

Paras. 16 and 18:

16. Calls upon Member States, international organizations, civil society organizations and the private sector, through partnerships, as appropriate, to increase and support prevention efforts in countries of origin, transit and destination by focusing on the demand and supply chains that foster all forms of trafficking and the goods and services produced as a result of trafficking in persons;

18. Calls upon Member States to continue their efforts to criminalize trafficking in persons in all its forms, including the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs, especially concerning children, and to condemn these practices and to investigate, prosecute and penalize traffickers and intermediaries while providing protection and assistance to the victims of trafficking with full respect for their human rights, and invites Member States to continue to support those United Nations agencies and international organizations that are actively involved in victim protection;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Preamble and paras. 11, 13, 14, 22 and 24:

Welcoming the adoption of the New York Declaration for Refugees and Migrants at the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, held on 19 September 2016,¹¹ the commitment by Member States to ensure that their responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls, and their commitment to combat sexual and gender-based violence to the greatest extent possible,

11. Urges States to adopt or develop and implement legislation and policies, in accordance with their commitments and obligations under international law, to prevent and respond to gender-related killing of women and girls, including femicide, while taking into account the particular difficulties faced by women migrant workers in accessing justice;

13. Urges Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts to reduce the vulnerability of women migrant workers by promoting decent work, by, inter alia, adopting minimum wage policies and employment contracts in accordance with applicable laws and regulations, facilitating effective access to justice and effective action in the areas of law enforcement, prosecution, prevention, capacity-building and victim protection and support, exchanging information and good practices in combating violence and discrimination against women migrant workers and fostering sustainable development alternatives to migration in countries of origin;

14. Also urges Governments to take into account the best interests of the child by adopting or strengthening measures to respect, promote and protect the human rights of migrant children, especially girls, including unaccompanied girls, regardless of their migratory status, so as to prevent trafficking in persons, labour and economic exploitation, discrimination, commercial sexual exploitation, sexual harassment, violence and sexual abuse of migrant children;

22. Encourages States to protect women migrant workers, including domestic workers, from becoming victims of trafficking in persons, through the implementation of programmes and policies that prevent victimization and through the provision of protection and access to justice, as well as medical and psychological assistance, where appropriate;

24. Urges States that have not yet done so to adopt and implement legislation and policies that protect all women migrant workers, including those in domestic work, to include therein, and improve where necessary, relevant monitoring and inspection measures, in line with applicable International Labour Organization conventions and other instruments to ensure compliance with international obligations and to grant women migrant workers in domestic service access to gender sensitive, transparent mechanisms for bringing complaints against recruitment agencies and employers, including terminating their contracts in the event of labour and economic exploitation, discrimination, sexual harassment, violence and sexual abuse in the workplace, while stressing that such instruments should not punish women migrant workers, and calls upon States to promptly investigate and punish all violations of their rights;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Paras. 3(b) and 4(d):

3(b). Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;

4(d). Urges all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

[Violence Against Women Migrant Workers, Resolution 70/130 adopted on 17 December 2015, A/RES/70/130, 8 February 2016](#)

Paras. 6, 9, 10, 11, 15, 19, 21, 22 and 24:

6. Calls upon all Governments to incorporate a human rights, gender sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, exploitation and abuse, to take effective measures to ensure that such migration and labour policies do not reinforce discrimination, and, where necessary, to conduct impact assessment studies of such legislation, policies and programmes in order to identify the impact of measures taken and the results achieved in regard to women migrant workers;

9. Urges Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts to reduce the vulnerability of women migrant workers by promoting decent work, by, inter alia, adopting minimum wage policies and employment contracts in accordance with applicable laws and regulations, facilitating effective access to justice and effective action in the areas of law enforcement, prosecution, prevention, capacity-building and victim protection and support, exchanging information and good practices in combating violence and discrimination against women migrant workers and fostering sustainable development alternatives to migration in countries of origin;

10. Also urges Governments to take into account the best interests of the child by adopting or strengthening measures to respect, promote and protect the human rights of migrant children, especially girls, including unaccompanied girls, regardless of their immigration status, so as to prevent labour and economic exploitation, discrimination, commercial sexual exploitation, sexual harassment, violence and sexual abuse in the workplace, including in domestic work;

11. Further urges Governments to strongly encourage all stakeholders, especially the private sector, including employment agencies involved in recruiting women migrant workers, to strengthen the focus on and funding support for the prevention of violence against women migrant workers, in particular by promoting the access of women to meaningful and gender-sensitive information and education on, inter alia, the costs and benefits of migration, rights and benefits to which they are entitled in the countries of origin and employment, overall conditions in countries of employment and procedures for legal migration, as well as to ensure that laws and policies governing recruiters, employers and intermediaries promote adherence to and respect for the human rights and, where applicable, labour rights of migrant workers, particularly women;

15. Calls upon Governments to promote access to adequate health-care services for women migrant workers and their accompanying children;

19. Calls upon Governments, in cooperation with international organizations, non-governmental organizations, the private sector and other stakeholders, to provide women migrant workers who are victims of violence, irrespective of their immigration status, in line with domestic legislation, with the full range of emergency assistance and protection and, to the extent possible, gender-sensitive services that are culturally and linguistically appropriate, in accordance with relevant international human rights instruments and applicable conventions;

21. Further calls upon Governments, in particular those of the countries of origin and destination, to put in place penal and criminal sanctions, in order to punish perpetrators of violence against women migrant workers and intermediaries, and gender-sensitive redress and justice mechanisms that victims can access effectively and that allow their views and concerns to be presented and considered at appropriate stages of proceedings, including other measures that will allow victims to be present during the judicial process, when possible, and to protect women migrant workers who are victims of violence from revictimization, including by authorities;

22. Urges all States to adopt and implement effective measures to put an end to the arbitrary arrest and detention of women migrant workers and to take action to prevent and punish any form of illegal deprivation of the liberty of women migrant workers by individuals or groups;

24. Also encourages Governments to promote coherence between migration, labour and anti-trafficking policies and programmes concerning women migrant workers, based on a human rights, gender-sensitive and people-centred perspective, to ensure that the human rights of women migrant workers are protected throughout the migration process and to enhance efforts to prevent violence against women migrant workers, prosecute perpetrators and protect and support victims and their families;

[Trafficking in women and girls, Resolution 69/149 adopted on 18 December 2014, A/RES/69/149, 10 February 2015](#)

Paras. 15 and 29:

15. Calls upon Governments, the international community and all other organizations and entities that deal with conflict, post-conflict, disaster and other emergency situations to address the heightened vulnerability of women and girls to trafficking and exploitation and associated gender-based violence and to include the prevention of the trafficking of affected women and girls in all such national, regional and international initiatives;

29. Calls upon concerned Governments to allocate resources, as appropriate, to provide access to appropriate programmes for the physical, psychological and social recovery of victims of trafficking, including sexual and reproductive healthcare services that include affordable treatment, care and support services for HIV/AIDS and sexually transmitted infections, free of stigma and discrimination, as well as comprehensive information and voluntary counselling, and to take measures to cooperate with intergovernmental and non-governmental organizations to provide for the social, medical and psychological care of the victims;

[International Migration and Development, Resolution 69/229 adopted on 19 December 2014, A/RES/69/229, 4 February 2015](#)

Para. 16:

16. Recognizes that women and girls account for almost half of all international migrants at the global level, and also recognizes the need to address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against women and girls;

[Declaration of the High-level Dialogue on International Migration and Development, Resolution 68/4 adopted on 3 October 2013, A/RES/68/4, 21 January 2014](#)

Paras. 11:

Recognize that women and girls account for almost half of all international migrants at the global level, and the need to address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against women and girls;

[Promoting efforts to eliminate violence against migrants, migrant workers and their families, Resolution 67/185 adopted on 20 December 2012, A/RES/67/185, 12 March 2013](#)

Paras. 3, 11 and 16:

3. Urges Member States to adopt measures for preventing and addressing effectively cases of violence against migrants, migrant workers and their families, and to ensure that the victims of such crimes receive humane and respectful treatment from Member States, regardless of their immigration status;

11. Invites Member States to adopt concrete measures to prevent violence against migrants while in transit, to train public officials at ports of entry and in border areas to treat migrants and their families respectfully and in accordance with the law, and to prosecute, in conformity with applicable national and international law, violations of the rights of migrants and their families during such transit;

16. Invites Member States to take immediate steps to incorporate into national criminal justice strategies measures to prevent, prosecute and punish crimes involving violence against migrants, migrant workers and their families;

[Protection of Migrants, Resolution 66/172 adopted on 19 December 2011, A/RES/66/172, 29 March 2012](#)

Paras. 4(e) and 8:

4(e). Requests States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

8. Encourages Member States that have not already done so to enact domestic legislation and to take further effective measures to combat international trafficking in persons and smuggling of migrants, recognizing that these crimes may endanger the lives of migrants or subject them to harm, servitude or exploitation, which may also include debt bondage, slavery, sexual exploitation or forced labour, and also encourages Member States to strengthen international cooperation to combat such trafficking and smuggling;

[Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, Resolution 65/230 adopted on 21 December 2010, A/RES/65/230, 1 April 2011](#)

Para. 38:

We affirm our determination to eliminate violence against migrants, migrant workers and their families, and we call upon Member States to adopt measures for preventing and addressing effectively cases of such violence and to ensure that those individuals receive humane and respectful treatment from States, regardless of their status. We also invite Member States to take immediate steps to incorporate into international crime prevention strategies and norms measures to prevent, prosecute and punish crimes involving violence against migrants, as well as violence associated with racism, xenophobia and related forms of intolerance. We invite the Commission on Crime Prevention and Criminal Justice to consider this issue further in a comprehensive manner.

Human Rights Council Resolutions

Unaccompanied migrant children and adolescents and human rights, A/HRC/RES/36/5, 4 October 2017

Para. 3:

Calls upon States to ensure appropriate, integrated and gender-sensitive child protection care and services for all unaccompanied and separated migrant children and adolescents starting from the time of their arrival, in accordance with relevant international legal frameworks, taking into account the principle of the best interests of the child and the special needs of unaccompanied migrant children and those separated from their families, to protect them against all forms of abuse, neglect, exploitation and violence and to work to provide for their health, education and psychosocial development in a manner that is age- and gender-sensitive and that ensures a continuum of protection throughout the migration cycle and across transnational borders;

Trafficking in persons, especially women and children: protecting victims of trafficking and people at risk of trafficking, especially women and children in conflict and post-conflict situations, A/HRC/32/3, 20 July 2016

Para. 2(b):

To identify measures to prevent trafficking for purposes of labour exploitation of persons fleeing conflict, including by establishing safe and regular channels of migration, respecting the principle of non-refoulement and, as appropriate, examining possibilities for their access to the labour market in the host country;

Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/32/14, 15 July 2016

Para. 10:

Also calls upon all States to promote and protect the human rights of all migrants, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, including those in a vulnerable situation, regardless of their immigration status, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate;

[Protection of the human rights of migrants: migrants in transit, A/HRC/29/2, 22 July 2015](#)

Para. 7(a):

To promote and protect the human rights of all migrants, including migrants in transit, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity;

8. Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

“Reaffirming that all individuals who have crossed or are seeking to cross international borders are entitled to due process in the assessment of their legal status, entry and stay, we will consider reviewing policies that criminalize cross-border movements. We will also pursue alternatives to detention while these assessments are under way.”

- Para. 33, New York Declaration for Refugees and Migrants

It is repeated in the following instruments that ‘*everyone has the right to liberty and security of person*’. This is made specifically clear in relation to children, with paragraph 56 of the [New York Declaration](#) stating, for example:

‘We affirm that children should not be criminalized or subject to punitive measures because of their migration status or that of their parents’.

The obligations that States have towards those who have been detained is set out in a number of international human rights law instruments, exemplified by Article 17 of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#), containing provisions relating to the dignity of the detainee and their right to legal counsel amongst other guarantees.

Treaty Law

Convention Relating to the Status of Refugees, 28 July 1951

Art. 31(1):

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

Vienna Convention on Consular Relations, 24 April 1963

Art. 5(a) and (e):

Consular functions consist in:

- (a). protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (e). helping and assisting nationals, both individuals and bodies corporate, of the sending State;

Art. 36(1):

With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

- (a). consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;
- (b). if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;
- (c). consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit

any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

International Covenant on Civil and Political Rights, 16 December 1966

Art. 9(1) and (4):

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

Art 10(1)-(2):

(1). All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(2)(a). Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b). Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

(3). The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Convention on the Rights of the Child, 20 November 1989

Art. 2:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Art. 3:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Art. 9:

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Art. 22:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

Art. 37(a)-(d):

37. States Parties shall ensure that:

(a). No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b). No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c). Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d). Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 16(1):

Migrant workers and members of their families shall have the right to liberty and security of person.

Art. 17:

- 1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.**
- 2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.**
- 3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.**
- 4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.**
- 5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.**
- 6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.**
- 7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.**
- 8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.**

[Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime, 15 November 2000](#)

Art. 16(5):

In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Optional Protocol to the Convention against Torture, 18 December 2002

Art. 19:

The national preventive mechanisms shall be granted at a minimum the power:

- (a). To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b). To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c). To submit proposals and observations concerning existing or draft legislation.

Art 20:

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a). Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b). Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c). Access to all places of detention and their installations and facilities;
- (d). The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;

- (e). The liberty to choose the places they want to visit and the persons they want to interview;
- (f). The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 33 and 56:

33. Reaffirming that all individuals who have crossed or are seeking to cross international borders are entitled to due process in the assessment of their legal status, entry and stay, we will consider reviewing policies that criminalize cross-border movements. We will also pursue alternatives to detention while these assessments are under way. Furthermore, recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interest of the child, and we will work towards the ending of this practice.

56: We affirm that children should not be criminalized or subject to punitive measures because of their migration status or that of their parents.

[Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\), Resolution adopted on 17 December 2015, A/RES/70/175, 8 January 2016](#)

Rule 62:

62(1). Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

62(2). Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

[UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution 43/173, A/RES/43/173, 9 December 1988](#)

Principles 13, 14, 16(2), 17 and 18:

13. Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

14. A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

16(2). If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.

17(1). A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

17(2). If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

18(1). A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.

18(2). A detained or imprisoned person shall be allowed adequate time and facilities for consultations with his legal counsel.

18(3). The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

18(4). Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.

18(5). Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(a), (b), (d) and (k):

4. Also reaffirms the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, and therefore:

- (a). Calls upon all States to respect the human rights and inherent dignity of migrants, to put an end to arbitrary arrest and detention and, bearing in mind the New York Declaration for Refugees and Migrants, to review policies that deny migrants the full enjoyment of their human rights and fundamental freedoms, to pursue alternatives to detention while assessments of migration status are under way and to take into account measures that have been successfully implemented by some States;
- (b). Encourages States to put in place, if they have not yet done so, appropriate systems and procedures in order to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and, when applicable, to work towards ending the detention of migrant children;
- (d). Urges all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;
- (k). Reaffirms emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, in particular with regard to the right of all foreign nationals, regardless of their migration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Paras. 29 and 32:

29. Urges all States to adopt and implement effective measures to put an end to the arbitrary arrest and detention of women migrant workers and to take action to prevent and punish any form of illegal deprivation of the liberty of women migrant workers by individuals or groups;

32. Calls upon States, in accordance with the provisions of article 36 of the Vienna Convention on Consular Relations,³⁴ to ensure that, if a woman migrant worker is arrested or committed to prison or custody pending trial, or is detained in any other manner, the competent authorities respect her freedom to communicate with and have access to the consular officials of the country of her nationality and, in this regard, to inform without delay, if that woman migrant worker so requests, the consular post of her State of nationality;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 4(k):

Reaffirms emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, in particular with regard to the right of all foreign nationals, regardless of their migration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

[Protection of migrants, Resolution 63/184 adopted on 18 December 2008, A/RES/63/184, 17 March 2009](#)

Para. 9:

Calls upon all States to respect the human rights and the inherent dignity of migrants and to put an end to arbitrary arrest and detention and, where necessary, to review detention periods in order to avoid excessive detention of irregular migrants, and to adopt, where applicable, alternative measures to detention;

Human Rights Council

[Unaccompanied migrant children and adolescents and human rights, A/HRC/RES/36/5, 4 October 2017](#)

Paras. 5 and 6:

5. Encourages States to prevent the separation of migrant children and adolescents from their families, to establish effective systems in conformity with their international obligations and commitments, and to prioritize family reunification for unaccompanied or separated children with their parents, except when further separation is necessary in the best interests of the child, taking full account of the right of the child to express his or her views freely in matters that affect them and ensuring that applications by the child, or his or her parents, to enter or leave a country for the purpose of family reunification are dealt with in a positive, humane and expeditious manner and entail no adverse consequences for the applicants or family members;

6. Reminds States that the detention of a migrant child or adolescent on the basis of their migration status or that of their parents is seldom, if ever, in the best interests of the child, and also reminds them of their commitment to work towards ending this practice, and calls upon States to consider reviewing policies that criminalize cross-border movements and to adopt alternatives to detention for children that take into account the best interests of the child, as a primary consideration, and respect the human rights of migrant children and adolescents, including the right to preserve their identities and family relations and not to be subjected to arbitrary or unlawful interference with their families;

9. Ensure the widest protection of the family unity of migrants; facilitate family reunification; prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.

'States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures'

- Para. 3(2), Convention on the Rights of the Child

The commitment to maintaining family unification is repeatedly echoed in a number of international human rights law instruments. For example, article 10 of the [Convention on the Rights of the Child](#) states that:

'applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family'.

It was agreed in paragraph 57 of the [New York Declaration](#) that facilitating family reunification was one of the ways that States could ensure *'safe, orderly and regular migration'*.

Treaty Law

Convention on the Rights of the Child, 20 November 1989

Art. 3:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Art. 5:

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Art. 9:

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Art. 10:

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Art. 12:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Art. 16:

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Art. 22:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 44:

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.
2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.
3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 57:

We will consider facilitating opportunities for safe, orderly and regular migration, including, as appropriate, employment creation, labour mobility at all skills levels, circular migration, family reunification and education-related opportunities

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 5(k):

Urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including unaccompanied children and persons with disabilities, and take into account, in conformity with their international obligations and commitments, the principle of the best interests of the child, clarity of reception and care arrangements and family reunification;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 5(d):

Welcomes immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

[Declaration of the High-level Dialogue on International Migration and Development, Resolution 68/4 adopted on 3 October 2013, A/RES/68/4, 21 January 2014](#)

Para. 13:

Express the commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide for their health, education and psychosocial development, ensuring that the best interests of the child are a primary consideration in policies of integration, return and family reunification;

[Special Session on Children, Resolution S-27/2, A world fit for children, A/RES/S-27/2, 11 October 2002](#)

Para. 15:

The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. The primary responsibility for the protection, upbringing and development of children rests with the family. All institutions of society should respect children's rights and secure their well-being and render appropriate assistance to

parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of the family exist.

Human Rights Council

Unaccompanied migrant children and adolescents and human rights, A/HRC/RES/36/5, 4 October 2017

Para. 2, 5 and 6:

2. Urges States to give primary consideration at all times to the best interests of the child, particularly with regard to children in transit or crossing borders, and when formulating policies on integration, return or family reunification, to carry out individualized, comprehensive best-interest assessments to identify the protection needs of migrant children and adolescents, particularly unaccompanied and separated children, and to carry out early and prompt assessments of victims of violence, exploitation and abuse who may qualify for refugee status or other forms of protection;

5. Encourages States to prevent the separation of migrant children and adolescents from their families, to establish effective systems in conformity with their international obligations and commitments, and to prioritize family reunification for unaccompanied or separated children with their parents, except when further separation is necessary in the best interests of the child, taking full account of the right of the child to express his or her views freely in matters that affect them and ensuring that applications by the child, or his or her parents, to enter or leave a country for the purpose of family reunification are dealt with in a positive, humane and expeditious manner and entail no adverse consequences for the applicants or family members;

6. Reminds States that the detention of a migrant child or adolescent on the basis of their migration status or that of their parents is seldom, if ever, in the best interests of the child, and also reminds them of their commitment to work towards ending this practice, and calls upon States to consider reviewing policies that criminalize cross-border movements and to adopt alternatives to detention for children that take into account the best interests of the child, as a primary consideration, and respect the human rights of migrant children and adolescents, including the right to preserve their identities and family relations and not to be subjected to arbitrary or unlawful interference with their families;

10. Guarantee the human rights of all children in the context of migration and ensure that child migrants are treated as children first and foremost.

‘We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child.’

- Para. 32, New York Declaration for Refugees and Migrants

Upholding the human rights of every child is a fundamental obligation for States who aim to comply with international human rights law (IHRL). The particular attention that has been given to children in IHRL is exemplified in the preamble of the [Convention on the Rights of the Child](#) which states that;

‘Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,’

Unaccompanied minors are also specifically mentioned in paragraph 32 of the [New York Declaration](#), with States committing to upholding their human rights and that *‘we will refer their care to the relevant national child protection authorities and other relevant authorities’*. Commitments have also been made regarding birth registration, for example SDG target 16.9 is; *‘By 2030, provide legal identity for all, including birth registration’*.

Treaty Law

Convention on the Rights of the Child, 20 November 1989

Preamble:

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Art. 2:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Art. 3:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Art. 6(2):

States Parties shall ensure to the maximum extent possible the survival and development of the child.

Art. 7:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Art. 12:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Art. 13:

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a). For respect of the rights or reputations of others; or
 - (b). For the protection of national security or of public order (ordre public), or of public health or morals.

Art. 20:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Art. 27:

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 32:

We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child. This will apply particularly to unaccompanied children and those separated from their families; we will refer their care to the relevant national child protection authorities and other relevant authorities. We will comply with our obligations under the Convention on the Rights of the Child. We will work to provide for basic health, education and psychosocial development and for the registration of all births on our territories. We are determined to ensure that all children are receiving education within a few months of arrival, and we will prioritize budgetary provision to facilitate this, including support for host countries as required. We will strive to provide refugee and migrant children with a nurturing environment for the full realization of their rights and capabilities.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 16.9:

By 2030, provide legal identity for all, including birth registration.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(b), 5(h), (i),(k) and 9(c):

4. Also reaffirms the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, and therefore:

(b). Encourages States to put in place, if they have not yet done so, appropriate systems and procedures in order to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and, when applicable, to work towards ending the detention of migrant children;

- (h). Calls upon States to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, ensuring that the best interests of the child are a primary consideration in their legislation, policies and practices, including on integration, return and family reunification;
- (i). Encourages all States to prevent and eliminate discriminatory policies and legislation at all levels of government that deny migrant children access to education and, while taking into account the best interests of the child as a primary consideration, to foster the successful integration of migrant children into the educational system and the removal of barriers to their education in host countries and countries of origin;
- (k). Urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including unaccompanied children and persons with disabilities, and take into account, in conformity with their international obligations and commitments, the principle of the best interests of the child, clarity of reception and care arrangements and family reunification;
- (c) Also encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Paras. 14, 19 and 20:

14. Also urges Governments to take into account the best interests of the child by adopting or strengthening measures to respect, promote and protect the human rights of migrant children, especially girls, including unaccompanied girls, regardless of their migratory status, so as to prevent trafficking in persons, labour and economic exploitation, discrimination, commercial sexual exploitation, sexual harassment, violence and sexual abuse of migrant children;
19. Calls upon Governments to promote access to adequate health-care services and education for women migrant workers and their accompanying children;
20. Also calls upon Governments to recognize the right of women migrant workers and their accompanying children, regardless of their migratory status, to have access without discrimination to emergency health care, including in times of humanitarian crises, natural disasters and other emergency situations, and in this regard to ensure that women migrant workers are not discriminated against on the grounds of pregnancy and childbirth and, in accordance with national legislation, to address the vulnerabilities to HIV experienced by migrant populations and support their access to HIV prevention, treatment, care and support;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 9(c):

Also encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law;

Human Rights Council Resolutions

[Unaccompanied migrant children and adolescents and human rights, A/HRC/RES/36/5, 4 October 2017](#)

Para. 1, 2, 3 and 5:

1. Reaffirms that States, in accordance with their obligations under international law, are responsible for promoting and protecting the human rights and fundamental freedoms of all migrants, regardless of their migration status, and that all migrant children, within their territory and subject to their jurisdiction, are entitled to equal protection under the law, and calls upon States to fully respect their rights, without discrimination of any kind, taking into consideration that they are children first and foremost;
2. Urges States to give primary consideration at all times to the best interests of the child, particularly with regard to children in transit or crossing borders, and when formulating policies on integration, return or family reunification, to carry out individualized, comprehensive best-interest assessments to identify the protection needs of migrant children and adolescents, particularly unaccompanied and separated children, and to carry out early and prompt assessments of victims of violence, exploitation and abuse who may qualify for refugee status or other forms of protection;
3. Calls upon States to ensure appropriate, integrated and gender-sensitive child protection care and services for all unaccompanied and separated migrant children and adolescents starting from the time of their arrival, in accordance with relevant international legal frameworks, taking into account the principle of the best interests of the child and the special needs of unaccompanied migrant children and those separated from their families, to protect them against all forms of abuse, neglect, exploitation and violence and to work to provide for their health, education and psychosocial development in a manner that is age- and gender-sensitive and that ensures a continuum of protection throughout the migration cycle and across transnational borders;

5. Encourages States to prevent the separation of migrant children and adolescents from their families, to establish effective systems in conformity with their international obligations and commitments, and to prioritize family reunification for unaccompanied or separated children with their parents, except when further separation is necessary in the best interests of the child, taking full account of the right of the child to express his or her views freely in matters that affect them and ensuring that applications by the child, or his or her parents, to enter or leave a country for the purpose of family reunification are dealt with in a positive, humane and expeditious manner and entail no adverse consequences for the applicants or family members;

[Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, A/HRC/RES/35/17, 22 June 2017](#)

Para. 8:

Reaffirms the duty of States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, including those of women and children at risk, especially unaccompanied migrant children or children separated from their families, persons with disabilities and those who are discriminated against on any basis, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

[Trafficking in persons, especially women and children: protecting victims of trafficking and people at risk of trafficking, especially women and children in conflict and post-conflict situations, A/HRC/32/3, 20 July 2016](#)

Para. 2(c):

To ensure birth registration and education and to promote access to marriage registration of persons fleeing conflict, including those living in camps for internally displaced persons and refugees, as a way to address potential trafficking in children;

[Birth registration and the right of everyone to recognition everywhere as a person before the law, A/HRC/28/13, 7 April 2015](#)

Para. 2, 6, 8 and 9:

2. Reminds States of their obligation to register births without discrimination of any kind and irrespective of the status of the parents of the child, and also reminds States that birth registration should take place immediately after birth, and that late birth registration should be limited to those cases that would otherwise result in a lack of registration;
6. Further calls upon States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures, without discrimination of any kind;
8. Also calls upon States to ensure that lack of birth registration or documents of proof of birth does not constitute an obstacle to access to and the enjoyment of relevant national services and programmes in accordance with international human rights law;
9. Urges States to identify and remove physical, administrative, procedural and any other barriers that impede access to birth registration, including late registration, paying due attention to, inter alia, barriers relating to poverty, disability, gender, nationality, displacement, illiteracy and detention contexts, and persons in vulnerable situations;

11. Protect the human rights of migrant women and girls.

'We will ensure that our responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls'

- Para. 31, New York Declaration for Refugees and Migrants

Specific commitments relating to the human rights of women and girls can be found in the 2030 Agenda, with States agreeing in targets 5.1 and 5.5 that they will:

'End all forms of discrimination against all women and girls everywhere' and 'Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life'.

The commitment to adopting gender sensitive responses to mixed migration is also contained in the [Violence Against Women Migrant Workers](#) resolution adopted by the General Assembly in 2015. Paragraph 6 of the resolution:

'Calls upon all Governments to incorporate a human rights, gender-sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, exploitation and abuse...'

This resolution also sets out in detail concrete measures that should be put in place to prevent violence against women and eliminate labour exploitation. For example, paragraph 14:

'Calls upon States to address the structural and underlying causes of violence against women migrant workers through education, dissemination of information and awareness-raising, by promoting their empowerment and access to decent work and, where relevant, their integration into the formal economy, in particular in economic decision-making, and by promoting their participation in public life, as appropriate'.

Treaty Law

[International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965](#)

Art. 5(b):

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 16(2):

Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 31:

We will ensure that our responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls. We will combat sexual and gender-based violence to the greatest extent possible. We will provide access to sexual and reproductive health-care services. We will tackle the multiple and intersecting forms of discrimination against refugee and migrant women and girls. At the same time, recognizing the significant contribution and leadership of women in refugee and migrant communities, we will work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities. We will take into consideration the different needs, vulnerabilities and capacities of women, girls, boys and men.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 1(b), 5.1, 5.5, 16(b) and para. 20:

1(b). Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions

5.1. End all forms of discrimination against all women and girls everywhere

5.5. Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

16(b). Promote and enforce non-discriminatory laws and policies for sustainable development

20. Realizing gender equality and the empowerment of women and girls will make a crucial contribution to progress across all the Goals and targets. The achievement of full human potential and of sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities. Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels. All forms of discrimination and violence against women and girls will be eliminated, including through the engagement of men and boys. The systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Paras. 5(e), (f) and (g):

(e). Calls upon States that have not already done so to provide for the protection of the human rights of women migrant workers, to promote fair labour conditions and to ensure that all women, including care workers, are legally protected against violence and exploitation;

(f). Encourages States to implement gender-sensitive policies and programmes for women migrant workers, to provide safe and legal channels that recognize the skills and education of women migrant workers and, as appropriate, to facilitate their productive employment, decent work and integration into the labour force, including in the fields of education and science and technology;

(g). Encourages all States to develop international migration policies and programmes that include a gender perspective, in order to adopt the measures necessary to better protect women and girls against dangers and abuse during migration

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Preamble and paras. 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 24, 27, 28, 29, 30:

Welcoming the adoption of the New York Declaration for Refugees and Migrants at the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, held on 19 September 2016, the commitment by Member States to ensure that their responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls, and their commitment to combat sexual and gender-based violence to the greatest extent possible,

Acknowledging also the need to protect the labour rights of and promote a safe environment for migrant workers and migrants in informal employment, including women migrant workers in all sectors, and to facilitate opportunities for safe, orderly and regular migration,

Recognizing the roles and responsibilities of and need for cooperation among all stakeholders, in particular countries of origin, transit and destination, relevant regional and international organizations, the private sector and civil society, in promoting an environment that prevents and addresses violence against women migrant workers, including in the context of discrimination, through targeted measures, and in this regard recognizing the importance of joint and collaborative approaches and strategies at the national, bilateral, regional and international levels,

7. Calls upon all Governments to incorporate a human rights, gender sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, trafficking in persons, exploitation and abuse, to take effective measures to ensure that such migration and labour policies do not reinforce discrimination, and, where necessary, to conduct impact assessment studies of such legislation, policies and programmes in order to identify the impact of measures taken and the results achieved in regard to women migrant workers;

8. Calls upon Governments to adopt or strengthen measures to protect the human rights of women migrant workers, including domestic workers, regardless of their migratory status, including in policies that regulate the recruitment and deployment of women migrant workers, to consider expanding dialogue among States on devising innovative methods to promote legal channels of migration in order to deter irregular migration, to consider incorporating a gender perspective into immigration laws in order to prevent discrimination and violence against women, including in independent, circular and temporary migration, and to consider permitting, in accordance with national legislation, women migrant workers who are

victims of violence, trafficking in persons or other forms of exploitation or abuse to apply for residency permits independently of abusive employers or spouses, and to eliminate abusive sponsorship systems;

11. Urges States to adopt or develop and implement legislation and policies, in accordance with their commitments and obligations under international law, to prevent and respond to gender-related killing of women and girls, including femicide, while taking into account the particular difficulties faced by women migrant workers in accessing justice;

12. Encourages Governments to seek to address the push and pull factors surrounding women's irregular migration, including the need to resolve care deficits in labour-importing countries and to regulate, formalize, professionalize and protect the terms and conditions of employment in care work, in line with national law and applicable obligations under international law;

13. Urges Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts to reduce the vulnerability of women migrant workers by promoting decent work, by, inter alia, adopting minimum wage policies and employment contracts in accordance with applicable laws and regulations, facilitating effective access to justice and effective action in the areas of law enforcement, prosecution, prevention, capacity-building and victim protection and support, exchanging information and good practices in combating violence and discrimination against women migrant workers and fostering sustainable development alternatives to migration in countries of origin;

15. Further urges Governments to strongly encourage all stakeholders, especially the private sector, including employment agencies involved in recruiting women migrant workers, to strengthen the focus on and funding support for the prevention of violence against women migrant workers, in particular by promoting the access of women to meaningful and gender-sensitive information and education on, inter alia, the costs and benefits of migration, rights and benefits to which they are entitled in the countries of origin and employment, overall conditions in countries of employment and procedures for legal migration, as well as to ensure that laws and policies governing recruiters, employers and intermediaries promote adherence to and respect for the human rights and, where applicable, labour rights of migrant workers, particularly women;

18. Calls upon States to address the structural and underlying causes of violence against women migrant workers, including through education and dissemination of information and by raising awareness of gender-equality issues, promoting their economic empowerment and access to decent work and, where relevant, their integration into the formal economy, in particular in economic decision-making, and promoting their participation in public life, as appropriate;

19. Calls upon Governments to promote access to adequate health-care services and education for women migrant workers and their accompanying children;

20. Also calls upon Governments to recognize the right of women migrant workers and their accompanying children, regardless of their migratory status, to have access without discrimination to emergency health care, including in times of humanitarian crises, natural disasters and other emergency situations, and in this regard to ensure that women migrant workers are not discriminated against on the grounds of pregnancy and childbirth and, in accordance with national legislation, to address the vulnerabilities to HIV experienced by migrant populations and support their access to HIV prevention, treatment, care and support;

22. Encourages States to protect women migrant workers, including domestic workers, from becoming victims of trafficking in persons, through the implementation of programmes and policies that prevent victimization and through the provision of protection and access to justice, as well as medical and psychological assistance, where appropriate;

24. Urges States that have not yet done so to adopt and implement legislation and policies that protect all women migrant workers, including those in domestic work, to include therein, and improve where necessary, relevant monitoring and inspection measures, in line with applicable International Labour Organization conventions and other instruments to ensure compliance with international obligations and to grant women migrant workers in domestic service access to gender sensitive, transparent mechanisms for bringing complaints against recruitment agencies and employers, including terminating their contracts in the event of labour and economic exploitation, discrimination, sexual harassment, violence and sexual abuse in the workplace, while stressing that such instruments should not punish women migrant workers, and calls upon States to promptly investigate and punish all violations of their rights;

27. Also calls upon Governments to ensure that legislative provisions and judicial processes are in place to provide women migrant workers access to justice, to enhance, develop or maintain legal frameworks and specific gender-sensitive policies to explicitly meet their needs and rights and, where necessary, to take appropriate steps to reform existing legislation and policies to capture their needs and protect their rights;

28. Further calls upon Governments, in particular those of the countries of origin and destination, to put in place penal and criminal sanctions, in order to punish perpetrators of violence against women migrant workers and intermediaries, and gender-sensitive redress and justice mechanisms that victims can access effectively and that allow their views and concerns to be presented and considered at appropriate stages of proceedings, including other measures that will allow victims to be present during the judicial process, when possible, and to protect women migrant workers who are victims of violence from revictimization, including by authorities;

29. Urges all States to adopt and implement effective measures to put an end to the arbitrary arrest and detention of women migrant workers and to take action to prevent and punish any form of illegal deprivation of the liberty of women migrant workers by individuals or groups;

30. Encourages Governments to formulate, implement and refine training programmes for their law enforcement officials, immigration officers and border officials, diplomatic and consular officials, judiciary, prosecutors, public sector medical staff and other service providers, with a view to sensitizing those public sector workers to the issue of violence against women migrant workers and imparting to them the necessary skills and attitude to ensure the delivery of proper, professional and gender-sensitive interventions, including for those in detention facilities;

Violence Against Women Migrant Workers, Resolution 70/130 adopted on 17 December 2015, A/RES/70/130, 8 February 2016

Paras. 6, 7, 9, 14 and 16:

6. Calls upon all Governments to incorporate a human rights, gender-sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, exploitation and abuse, to take effective measures to ensure that such migration and labour policies do not reinforce discrimination, and, where necessary, to conduct impact assessment studies of such legislation, policies and programmes in order to identify the impact of measures taken and the results achieved in regard to women migrant workers;

7. Calls upon Governments to adopt or strengthen measures to protect the human rights of women migrant workers, including domestic workers, regardless of their immigration status, including in policies that regulate the recruitment and deployment of women migrant workers, to consider expanding dialogue among States on devising innovative methods to promote legal channels of migration, inter alia, in order to deter irregular migration, to consider incorporating a gender perspective into immigration laws in order to prevent discrimination and violence against women, including in independent, circular and temporary migration, and to consider permitting, in accordance with national legislation, women migrant workers who are victims of violence to apply for residency permits independently of abusive employers or spouses, and to eliminate abusive sponsorship systems;

9. Urges Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts to reduce the vulnerability of women migrant workers by promoting decent work, by, inter alia, adopting minimum wage policies and employment contracts in accordance with applicable laws and regulations, facilitating effective access to justice and effective action in the areas of law enforcement, prosecution, prevention, capacity-building and victim

protection and support, exchanging information and good practices in combating violence and discrimination against women migrant workers and fostering sustainable development alternatives to migration in countries of origin;

14. Calls upon States to address the structural and underlying causes of violence against women migrant workers through education, dissemination of information and awareness-raising, by promoting their empowerment and access to decent work and, where relevant, their integration into the formal economy, in particular in economic decision-making, and by promoting their participation in public life, as appropriate;

16. Also calls upon Governments to recognize the right of women migrant workers and their accompanying children, regardless of their immigration status, to have access without discrimination to emergency health care, including in times of humanitarian crises, natural disasters and other emergency situations, and in this regard to ensure that women migrant workers are not discriminated against on the grounds of pregnancy and childbirth and, in accordance with national legislation, to address the vulnerabilities to HIV experienced by migrant populations and support their access to HIV prevention, treatment, care and support;

Human Rights Council

[Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, A/HRC/RES/35/17, 22 June 2017](#)

Para. 8:

Reaffirms the duty of States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, including those of women and children at risk, especially unaccompanied migrant children or children separated from their families, persons with disabilities and those who are discriminated against on any basis, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

12. Ensure that all migrants enjoy the highest attainable standard of physical and mental health

“To promote and protect the right of all persons to the highest attainable standard of physical and mental health without discrimination of any kind and, to this end, to provide emergency medical and first-aid attention for migrants who need it, regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity”

- Para. 8(a), Promotion of the right of migrants to the enjoyment of the highest attainable standard of physical and mental health, Human Rights Council Resolution, A/HRC/RES/26/21, 27 June 2014

The above language is an example of States agreeing to enable migrants to access healthcare regardless of their migratory status without the threat of being reported to immigration officials, or in other words committing to having ‘firewalls’ between healthcare and immigration enforcement. A further example of this can be found in the [‘Protection of the human rights of migrants’](#) resolution passed by the Council in 2017, which in paragraph 12:

‘Calls upon all States to promote and protect the human rights of all migrants, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, including those in a vulnerable situation, regardless of their migration status, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate’.

Access to healthcare without discrimination was also agreed to in the [2030 Agenda](#) as SDG target 3.8 requires States to:

‘Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all’.

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art 10(1):

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 17(1):

Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules), 21 December 2010

Rule 6:

The health screening of women prisoners shall include comprehensive screening to determine primary healthcare needs, and also shall determine:

- (a). The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counselling;
- (b). Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;
- (c). The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;
- (d). The existence of drug dependency;
- (e). Sexual abuse and other forms of violence that may have been suffered prior to admission

Rule 7:

1. If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the woman prisoner shall be informed of her right to seek recourse from judicial authorities. The woman prisoner should be fully informed of the procedures and steps involved. If the woman prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.
2. Whether or not the woman chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.
3. Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.

Rule 9:

If the woman prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.

Rule 10:

1. Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners.
2. If a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination.

Rule 12:

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in noncustodial settings.

Rule 13:

Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support.

Rule 14:

In developing responses to HIV/AIDS in penal institutions, programmes and services shall be responsive to the specific needs of women, including prevention of mother-to-child transmission. In this context, prison authorities shall encourage and support the development of initiatives on HIV prevention, treatment and care, such as peer-based education.

Rule 15:

Prison health services shall provide or facilitate specialized treatment programmes designed for women substance abusers, taking into account prior victimization, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds.

Rule 16:

Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons.

Rule 18:

Preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynaecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community.

Rule 25(2):

Women prisoners who have been subjected to sexual abuse, and especially those who have become pregnant as a result, shall receive appropriate medical advice and counselling and shall be provided with the requisite physical and mental health care, support and legal aid.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 17 December 2015

Rule 19(1):

Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.

Rule 22:

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
2. Drinking water shall be available to every prisoner whenever he or she needs it.

Rule 24:

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.

Rule 25:

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.

Rule 27:

1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.
2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.

Rule 28:

In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

Rule 29:

1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:

- (a). Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;
- (b). Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.

2. Children in prison with a parent shall never be treated as prisoners.

Rule 30:

A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

- (a). Identifying health-care needs and taking all necessary measures for treatment;
- (b). Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;
- (c). Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;
- (d). In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;
- (e). Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.

Rule 31:

The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 30 and 31:

30. We encourage States to address the vulnerabilities to HIV and the specific health-care needs experienced by migrant and mobile populations, as well as by refugees and crisis-affected populations, and to take steps to reduce stigma, discrimination and violence, as well as to review policies related to restrictions on entry based on HIV status, with a view to eliminating such restrictions and the return of people on the basis of their HIV status, and to support their access to HIV prevention, treatment, care and support.

31. We will ensure that our responses to large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls. We will combat sexual and gender-based violence to the greatest extent possible. We will provide access to sexual and reproductive health-care services. We will tackle the multiple and intersecting forms of discrimination against refugee and migrant women and girls. At the same time, recognizing the significant contribution and leadership of women in refugee and migrant communities, we will work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities. We will take into consideration the different needs, vulnerabilities and capacities of women, girls, boys and men.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Target 3.1, 3.3, 3.4, 3.7, 3.8, 5.6 and paras. 7 and 26:

3.1. By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births

3.3. By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases

3.4. By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and wellbeing

3.7. By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes

3.8. Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all

5.6. Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

7. In these Goals and targets, we are setting out a supremely ambitious and transformational vision. We envisage a world free of poverty, hunger, disease and want, where all life can thrive. We envisage a world free of fear and violence. A world with universal literacy. A world with equitable and universal access to quality education at all levels, to health care and social protection, where physical, mental and social well-being are assured. A world where we reaffirm our commitments regarding the human right to safe drinking water and sanitation and where there is improved hygiene; and where food is sufficient, safe, affordable and nutritious. A world where human habitats are safe, resilient and sustainable and where there is universal access to affordable, reliable and sustainable energy.

26. To promote physical and mental health and well-being, and to extend life expectancy for all, we must achieve universal health coverage and access to quality health care. No one must be left behind. We commit to accelerating the progress made to date in reducing newborn, child and maternal mortality by ending all such preventable deaths before 2030. We are committed to ensuring universal access to sexual and reproductive health-care services, including for family planning, information and education. We will equally accelerate the pace of progress made in fighting malaria, HIV/AIDS, tuberculosis, hepatitis, Ebola and other communicable diseases and epidemics, including by addressing growing anti-microbial resistance and the problem of unattended diseases affecting developing countries. We are committed to the prevention and treatment of non-communicable diseases, including behavioural, developmental and neurological disorders, which constitute a major challenge for sustainable development.

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Paras. 19, 20 and 22:

19. Calls upon Governments to promote access to adequate health-care services and education for women migrant workers and their accompanying children;

20. Also calls upon Governments to recognize the right of women migrant workers and their accompanying children, regardless of their migratory status, to have access without discrimination to emergency health care, including in times of humanitarian crises, natural disasters and other emergency situations, and in this regard to ensure that women migrant workers are not discriminated against on the grounds of pregnancy and childbirth and, in accordance with national legislation, to address the vulnerabilities to HIV experienced by migrant populations and support their access to HIV prevention, treatment, care and support;

22. Encourages States to protect women migrant workers, including domestic workers, from becoming victims of trafficking in persons, through the implementation of programmes and policies that prevent victimization and through the provision of protection and access to justice, as well as medical and psychological assistance, where appropriate;

Human Rights Resolutions

[The right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development, A/HRC/RES/35/23, 12 July 2017](#)

Preamble and para 4 and 7:

Reaffirming the right of refugees and migrants to the enjoyment of the highest attainable standard of physical and mental health,

Recognizing the need for States to address the social, economic and environmental determinants of health, as well as to address holistically a range of barriers arising from inequality and discrimination that impede access to health-care services,

4. Also urges States to bring their laws, policies and practices, including their strategies towards the implementation of the health-related Sustainable Development Goals, fully into compliance with their obligations under international human rights law, and to review and, where necessary, repeal those that are discriminatory;

7. Further encourages States to empower users of health-care services to know and demand their rights, including through health and human rights literacy, and to provide human rights education and training for health workers, with special focus on non-discrimination, free and informed consent, confidentiality, privacy and the duty to provide treatment, and to exchange best practices in this regard;

[Promotion of the right of migrants to the enjoyment of the highest attainable standard of physical and mental health A/HRC/RES/26/21, 27 June 2014](#)

Para. 8:

Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination, including by taking steps:

(a). To promote and protect the right of all persons to the highest attainable standard of physical and mental health without discrimination of any kind and, to this end, to provide emergency medical and first-aid attention for migrants who need it,

regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity;

(b). To promote access to health services for everyone and migrant-sensitive health policies, including by taking into account physical, financial, cultural and linguistic barriers that may contribute to furthering inequalities;

(c). To the effect that domestic law and administrative provisions and their application facilitate the work of medical personnel and staff, humanitarian workers, human rights defenders and any other actor providing humanitarian assistance to and defending the human rights of irregular migrants, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law;

(d). To ensure that no person engaged in medical activities is penalized in any way for refusing or failing to give to immigration authorities information concerning the immigration status of a person under his or her care or for providing health care and health- related assistance to undocumented migrants;

(e). To ensure that persons engaged in medical activities are not compelled to perform immigration duties or any other acts contrary to the rules of medical ethics or other rules designed for the benefit of the patients;

(f). To ensure that health-care workers who interact with migrants on a routine basis have good information about the rights of migrants in different legal statuses and about their obligations towards migrants;

13. Safeguard the right of migrants to an adequate standard of living.

'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.'

- Art. 11(1), International Covenant on Economic, Social and Cultural Rights

The above language contained in the [International Covenant on Economic, Social and Cultural Rights](#) is echoed in a number of other international human rights law instruments including, for example, article 27(1) of the [Convention on the Rights of the Child](#) which provides that:

'States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.'

Consistently repeated within these instruments is that an adequate standard of living encompasses the right to *'adequate food, clothing and housing, and to the continuous improvement of living conditions'*. For example, this same language can also be found in Article 28(1) of the [Convention on the Rights of Persons with Disabilities](#) which was drafted in 2005.

In the [2030 Agenda](#), States committed to taking concrete steps to ensure an adequate standard of living for every person. For example, to meet SDG target 2.1 States must

'By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round'.

Likewise, it was agreed in targets 6.1 and 11.1 that States would *'By 2030, achieve universal and equitable access to safe and affordable drinking water for all'* and *'By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums'*.

Treaty Law

International Covenant on Economic, Social and Cultural Rights, 16 December 1966

Art. 11(1):

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979

Art. 12:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Convention on the Rights of the Child, 20 November 1989

Art 24:

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a). To diminish infant and child mortality;
 - (b). To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

- (c). To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d). To ensure appropriate pre-natal and post-natal health care for mothers;
- (e). To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f). To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Art. 27:

- 1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
- 2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
- 3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
- 4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

[Convention on the Rights of Persons with Disabilities, 13 December 2006](#)

Art. 28:

- 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.**
- 2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:**
 - (a). To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;**
 - (b). To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;**
 - (c). To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability related expenses, including adequate training, counselling, financial assistance and respite care;**
 - (d). To ensure access by persons with disabilities to public housing programmes;**
 - (e). To ensure equal access by persons with disabilities to retirement benefits and programmes.**

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 11:

We acknowledge a shared responsibility to manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centred manner. We will do so through international cooperation, while recognizing that there are varying capacities and resources to respond to these movements. International cooperation and, in particular, cooperation among countries of origin or nationality, transit and destination, has never been more important; “win-win” cooperation in this area has profound benefits for humanity. Large movements of refugees and migrants must have comprehensive policy support, assistance and protection, consistent with States’ obligations under international law. We

also recall our obligations to fully respect their human rights and fundamental freedoms, and we stress their need to live their lives in safety and dignity. We pledge our support to those affected today as well as to those who will be part of future large movements.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Target 2.1, 3.8, 6.1, 6.2 and 11.1:

2.1. By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round

3.8. Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all

6.1. By 2030, achieve universal and equitable access to safe and affordable drinking water for all

6.2. By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situation

11.1. By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums

14. Guarantee the right of migrants to work in just and favourable conditions

'The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work ...'

- Art. 7, International Covenant on Economic, Social and Cultural Rights

The right to work in just and favourable conditions is enshrined in, Article 7 of the [International Covenant on Economic, Social and Cultural Rights](#) makes it clear that every person has the right to;

*'Fair wages and equal remuneration for work of equal value without distinction of any kind' (Art. 7(a)(i)),
'Safe and healthy working conditions' (Art. 7(b)),
'Equal opportunity for everyone to be promoted in his employment to an appropriate higher level' (Art. 7(c)), and,
'Rest, leisure and reasonable limitation of working hours and periodic holidays with pay' (Art. 7(d)).*

These commitments are echoed in the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#), which makes clear that these rights also extend to irregular migrants as Article 25(3) provides that:

'States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity'.

The [2030 Agenda](#) contains a number of commitments relating to employment, an example being SDG target 8.8 in which States agreed they will:

'Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment'.

Treaty Law

International Covenant on Economic, Social and Cultural Rights, 16 December 1966

Art. 6(1):

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Art. 7:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a). Remuneration which provides all workers, as a minimum, with:

(i). Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii). A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b). Safe and healthy working conditions;

(c). Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d). Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 25:

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;

(b) Other terms of employment, that is to say, minimum age of employment, restriction on work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

General Assembly Resolutions

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 1.3, 8.8, 10.4 and paras. 9 and 27:

1.3. Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable

8.8. Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

10.4. Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality

9. We envisage a world in which every country enjoys sustained, inclusive and sustainable economic growth and decent work for all....

27. We will seek to build strong economic foundations for all our countries. Sustained, inclusive and sustainable economic growth is essential for prosperity. This will only be possible if wealth is shared and income inequality is addressed. We will work to build dynamic, sustainable, innovative and people-centred economies, promoting youth employment and women's economic empowerment, in particular, and decent work for all. We will eradicate forced labour and human trafficking and end child labour in all its forms. All countries stand to benefit from having a healthy and well-educated workforce with the knowledge and skills needed for productive and fulfilling work and full participation in society. We will strengthen the productive capacities of least developed countries in all sectors, including through structural transformation. We will adopt policies which increase productive capacities, productivity and productive employment; financial inclusion; sustainable agriculture, pastoralist and fisheries development; sustainable industrial development; universal access to affordable,

reliable, sustainable and modern energy services; sustainable transport systems; and quality and resilient infrastructure.6.2. By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situation.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 3(b), 4(l) and 5(e):

- (b). Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;
- (l). Requests all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;
- (e). Calls upon States that have not already done so to provide for the protection of the human rights of women migrant workers, to promote fair labour conditions and to ensure that all women, including care workers, are legally protected against violence and exploitation;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Preamble and paras. 7, 12, 13, 15, 18, 23, 24 and 32:

Acknowledging also the need to protect the labour rights of and promote a safe environment for migrant workers and migrants in informal employment, including women migrant workers in all sectors, and to facilitate opportunities for safe, orderly and regular migration,

7. Calls upon all Governments to incorporate a human rights, gender sensitive and people-centred perspective in legislation, policies and programmes on international migration and on labour and employment, consistent with their human rights obligations and commitments under human rights instruments, for the prevention of and protection of migrant women against violence and discrimination, trafficking in persons, exploitation and abuse, to take effective measures to ensure that such migration and labour policies do not reinforce discrimination, and, where necessary, to conduct impact assessment studies of such legislation, policies and programmes in order to identify the impact of measures taken and the results achieved in regard to women migrant workers;

12. Encourages Governments to seek to address the push and pull factors surrounding women's irregular migration, including the need to resolve care deficits in labour-importing countries and to regulate, formalize, professionalize and protect the terms and conditions of employment in care work, in line with national law and applicable obligations under international law;

13. Urges Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, fully respecting international law, including international human rights law, as well as to strengthen efforts to reduce the vulnerability of women migrant workers by promoting decent work, by, inter alia, adopting minimum wage policies and employment contracts in accordance with applicable laws and regulations, facilitating effective access to justice and effective action in the areas of law enforcement, prosecution, prevention, capacity-building and victim protection and support, exchanging information and good practices in combating violence and discrimination against women migrant workers and fostering sustainable development alternatives to migration in countries of origin;

15. Further urges Governments to strongly encourage all stakeholders, especially the private sector, including employment agencies involved in recruiting women migrant workers, to strengthen the focus on and funding support for the prevention of violence against women migrant workers, in particular by promoting the access of women to meaningful and gender-sensitive information and education on, inter alia, the costs and benefits of migration, rights and benefits to which they are entitled in the countries of origin and employment, overall conditions in countries of employment and procedures for legal migration, as well as to ensure that laws and policies governing recruiters, employers and intermediaries promote adherence to and respect for the human rights and, where applicable, labour rights of migrant workers, particularly women;

18. Calls upon States to address the structural and underlying causes of violence against women migrant workers, including through education and dissemination of information and by raising awareness of gender-equality issues, promoting their economic empowerment and access to decent work and, where relevant, their integration into the formal economy, in particular in economic decision-making, and promoting their participation in public life, as appropriate;

23. Urges States to recognize the significant contributions and leadership of women in migrant communities and to take appropriate steps to promote their full, equal and meaningful participation in the development of local solutions and opportunities, and also to recognize the importance of protecting labour rights and a safe environment for women migrant workers and those in informal employment, protecting women migrant workers in all sectors and encouraging safe, orderly and regular migration, as well as labour mobility, including circular migration;

24. Urges States that have not yet done so to adopt and implement legislation and policies that protect all women migrant workers, including those in domestic work, to include therein, and improve where necessary, relevant monitoring and inspection measures, in line with applicable International Labour Organization conventions and other instruments to ensure compliance with international obligations and to grant women migrant workers in domestic service access to gender

sensitive, transparent mechanisms for bringing complaints against recruitment agencies and employers, including terminating their contracts in the event of labour and economic exploitation, discrimination, sexual harassment, violence and sexual abuse in the workplace, while stressing that such instruments should not punish women migrant workers, and calls upon States to promptly investigate and punish all violations of their rights;

Human Rights Council

[Right to Work, A/HRC/RES/34/14, 11 April 2017](#)

Paras. 3, 5 and 7:

3. Also reaffirms, as enshrined in the International Covenant on Economic, Social and Cultural Rights, the right of everyone to the enjoyment of just and favourable conditions of work that ensure, in particular, remuneration that provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; a decent living for themselves and their families; safe and healthy working conditions; equal opportunity for everyone to be promoted in his or her employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, and remuneration for public holidays;

5. Recognizes that ensuring equality and non-discrimination in access to work is crucial in addressing the social prejudices and disadvantages that might exist in the labour market and undermine equality and dignity;

7. Also stresses that States, as provided for by the relevant international legal instruments, should prohibit forced and compulsory labour and punish its use in all its forms;

15. Protect the right of migrants to education

“We are determined to ensure that all children are receiving education within a few months of arrival, and we will prioritize budgetary provision to facilitate this, including support for host countries as required.”

- Para. 32, New York Declaration for Refugees and Migrants

The importance placed upon the right to education is affirmed in Article 13(1) of [the International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) as it provides that the States present to the Covenant:

‘agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace’.

To that end article 13(2)(a) and (b) of the [ICESCR](#) state that:

‘Primary education shall be compulsory and available free to all’ and ‘Secondary education ... shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education’.

In signing [the 2030 Agenda](#), States committed to ensuring that every person, regardless of their migratory status has access to education. In order to meet SDG goals 4.1 and 4.3 states must:

‘By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes’ and,

‘By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university’.

The commitment to providing education without discrimination is elaborated in paragraph 25 of [the 2030 Agenda](#), as it states:

‘All people, irrespective of sex, age, race or ethnicity, and persons with disabilities, migrants, indigenous peoples, children and youth, especially those in vulnerable situations, should have access to life-long learning opportunities’

Treaty Law

International Covenant on Economic, Social and Cultural Rights, 16 December 1966

Art. 13(1):

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Art. 13(2)(a):

Primary education shall be compulsory and available free to all;

Art. 13(2)(b):

Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

Art. 14:

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Convention on the Rights of the Child, 20 November 1989

Art. 23(3):

Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

Art. 28:

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a). Make primary education compulsory and available free to all;**
- (b). Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;**
- (c). Make higher education accessible to all on the basis of capacity by every appropriate means;**
- (d). Make educational and vocational information and guidance available and accessible to all children;**
- (e). Take measures to encourage regular attendance at schools and the reduction of drop-out rates.**

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 30:

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

[Convention on the Rights of Persons with Disabilities, 13 December 2006](#)

Art. 24:

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- (a). The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;**
- (b). The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;**
- (c). Enabling persons with disabilities to participate effectively in a free society. 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.**

2. In realizing this right, States Parties shall ensure that:

- (a). Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;**
- (b). Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;**
- (c). Reasonable accommodation of the individual's requirements is provided;**
- (d). Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;**
- (e). Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.**

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

- (a). Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;**

(b). Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c). Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 32:

We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child. This will apply particularly to unaccompanied children and those separated from their families; we will refer their care to the relevant national child protection authorities and other relevant authorities. We will comply with our obligations under the Convention on the Rights of the Child. We will work to provide for basic health, education and psychosocial development and for the registration of all births on our territories. We are determined to ensure that all children are receiving education within a few months of arrival, and we will prioritize budgetary provision to facilitate this, including support for host countries as required. We will strive to provide refugee and migrant children with a nurturing environment for the full realization of their rights and capabilities.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 4.1, 4.3, 4.4, 4.5, 4.7 and paras. 20 and 25:

4.1. By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes

4.3. By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university

4.4. By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship

4.5. By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations

4.7. By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development

20. Realizing gender equality and the empowerment of women and girls will make a crucial contribution to progress across all the Goals and targets. The achievement of full human potential and of sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities. Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels. All forms of discrimination and violence against women and girls will be eliminated, including through the engagement of men and boys. The systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial.

25. We commit to providing inclusive and equitable quality education at all levels – early childhood, primary, secondary, tertiary, technical and vocational training. All people, irrespective of sex, age, race or ethnicity, and persons with disabilities, migrants, indigenous peoples, children and youth, especially those in vulnerable situations, should have access to life-long learning opportunities that help them to acquire the knowledge and skills needed to exploit opportunities and to participate fully in society. We will strive to provide children and youth with a nurturing environment for the full realization of their rights and capabilities, helping our countries to reap the demographic dividend, including through safe schools and cohesive communities and families.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(i) and (j):

(i). Encourages all States to prevent and eliminate discriminatory policies and legislation at all levels of government that deny migrant children access to education and, while taking into account the best interests of the child as a primary consideration, to foster the successful integration of migrant children into the educational system and the removal of barriers to their education in host countries and countries of origin;

(j). Reminds all States that all persons, including migrants, should have access to lifelong learning opportunities that help them acquire the knowledge and skills needed to take advantage of opportunities and to participate fully in society;

[Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018](#)

Para. 19:

19. Calls upon Governments to promote access to adequate health-care services and education for women migrant workers and their accompanying children;

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Paras. 5(f), 5(i) and 5(j):

5(f). Encourages States to implement gender-sensitive policies and programmes for women migrant workers, to provide safe and legal channels that recognize the skills and education of women migrant workers and, as appropriate, to facilitate their productive employment, decent work and integration into the labour force, including in the fields of education and science and technology;

5(i). Encourages all States to prevent and eliminate discriminatory policies and legislation at all levels of government that deny migrant children access to education and, while taking into account the best interests of the child as a primary consideration, to foster the successful integration of migrant children into the education system and the removal of barriers to their education in host countries and countries of origin;

5(j). Reminds all States that all persons, including migrants, should have access to lifelong learning opportunities that help them acquire the knowledge and skills needed to take advantage of opportunities and to participate fully in society;

[Declaration of the High-level Dialogue on International Migration and Development, Resolution 68/4 adopted on 3 October 2013, A/RES/68/4, 21 January 2014](#)

Para. 13:

Express the commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide for their health, education and psychosocial development, ensuring that the best interests of the child are a primary consideration in policies of integration, return and family reunification;

[Human Rights Council Resolutions](#)

[Human Rights of Migrants, A/HRC/RES/20/3, 16 July 2012](#)

Paras. 2,3 and 4:

2. Stresses that education contributes to the full enjoyment of human rights;
3. Calls upon States to recognize and respect the right of everyone to education, as enshrined in the Universal Declaration of Human Rights, and encourages them to take steps that promote the prevention and elimination of discriminatory policies that deny migrant children and children of migrants access to education;
4. Expresses concern at legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, including the enjoyment of the right to education;

16. Uphold migrants' right to information.

"We will take measures to inform migrants about the various processes relating to their arrival and stay in countries of transit, destination and return."

- Para. 42, New York Declaration for Refugees and Migrants

The right to information is enshrined within article 19(2) of the [International Covenant on Civil and Political Rights](#) as it provides that:

'Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.'

The right to information can also be found in article 13 of the [Convention on the Rights of the Child](#) and in greater detail in article 6 of the [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) which states that:

'Everyone has the right, individually and in association with others;

(a). To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b). As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

The right to disseminate information on the internet has also been affirmed in paragraph 3 of the ['promotion, protection and enjoyment of human rights on the internet'](#) resolution adopted by the Human Rights Council in 2016, as it states that freedom of expression *'is applicable regardless of frontiers'*

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Art. 19(2):

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Convention on the Rights of the Child, 20 November 1989

Art. 13:

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a). For respect of the rights or reputations of others; or
 - (b). For the protection of national security or of public order (ordre public), or of public health or morals.

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 9 December 1998](#)

Art. 6:

Everyone has the right, individually and in association with others:

- (a). To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b). As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c). To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 42:

We commit to safeguarding the rights of, protecting the interests of and assisting our migrant communities abroad, including through consular protection, assistance and cooperation, in accordance with relevant international law. We reaffirm that everyone has the right to leave any country, including his or her own, and to return to his or her country. We recall at the same time that each State has a sovereign right to determine whom to admit to its territory, subject to that State's international obligations. We recall also that States must readmit their returning nationals and ensure that they are duly received without undue delay, following confirmation of their nationalities in accordance with national legislation. We will take measures to inform migrants about the various processes relating to their arrival and stay in countries of transit, destination and return.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 16.10:

Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(k):

Reaffirms emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, in particular with regard to the right of all foreign nationals, regardless of their migration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

[Human Rights Council Resolutions](#)

[The promotion, protection and enjoyment of human rights on the internet, A/HRC/32/13, 18 July 2016](#)

Paras. 1, 3 and 8:

1. Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

3. Calls upon all states to promote and facilitate international cooperation aimed at the development of media and information and communication facilities and technologies in all countries;

8. Calls upon all States to address security concerns on the Internet in accordance with their international human rights obligations to ensure protection of freedom of expression, freedom of association, privacy and other human rights online, including through national democratic, transparent institutions, based on the rule of law, in a way that ensures freedom and security on the Internet so that it can continue to be a vibrant force that generates economic, social and cultural development;

[The right to privacy in the digital age, A/HRC/28/16, 1 April 2015](#)

Para. 3:

Affirms that the same rights that people have offline must also be protected online, including the right to privacy;

17. Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

‘In the exercise of human rights and fundamental freedoms ... everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights’

- Art. 9(1), Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The obligation upon States to have in place appropriate mechanisms for migrants to report and hold to account those responsible for human rights violations can be found in a number of sources within international human rights law. For example, in accordance with article 2(3) of the [International Covenant on Civil and Political Rights](#) States shall ensure that

‘any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity’.

Likewise, OP 3(b) of the [Protection of Migrants](#) resolution adopted by the General Assembly in 2015:

‘Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly’.

SDG Target 16.6 of the [2030 Agenda](#) requires States to ‘Develop effective, accountable and transparent institutions at all levels’. Therefore States must monitor how migrants are treated by public institutions and officials, echoing article 19 of the [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) in which states agreed to:

‘regularly examine the treatment of the persons deprived of their liberty in places of detention ... with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment’.

Treaty Law

International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965

Art. 6:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

International Covenant on Civil and Political Rights, 16 December 1966

Art. 2(3):

Each State Party to the present Covenant undertakes:

- (a). To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b). To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c). To ensure that the competent authorities shall enforce such remedies when granted.

Art. 9(5):

Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Art. 14(6):

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984](#)

Art. 14:

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

[Convention on the Rights of the Child, 20 November 1989](#)

Art. 39:

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990](#)

Art. 15:

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Art. 16(9):

Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Art. 18(6):

When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

Art. 22(5):

If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

[Declaration on the Elimination of Violence against Women, 20 December 1993](#)

Art. 4(d):

Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 9 December 1998](#)

Art. 9(1)-(2):

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a

decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 18 December 2002

Art. 19:

The national preventive mechanisms shall be granted at a minimum the power:

- (a). To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b). To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c). To submit proposals and observations concerning existing or draft legislation.

Art. 20:

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a). Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b). Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c). Access to all places of detention and their installations and facilities;
- (d). The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e). The liberty to choose the places they want to visit and the persons they want to interview;

- (f). The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

General Assembly Resolutions

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 16.5, 16.6 and 16(a):

16.5. Substantially reduce corruption and bribery in all their forms

16.6. Develop effective, accountable and transparent institutions at all levels

16(a). Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime

[Protection of migrants, Resolution 70/147 adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Para. 3(a), 3(b) and 4(o):

3(a). Strongly condemns acts, manifestations and expressions 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, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

3(b). Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;

4(o). Recalls that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

[Promoting efforts to eliminate violence against migrants, migrant workers and their families, Resolution 67/185 adopted on 20 December 2012, A/RES/67/185, 12 March 2013](#)

Para. 7:

Calls upon Member States to institute measures, as appropriate, to strengthen the entire criminal justice process and to vigorously investigate and prosecute crimes against migrants, including trafficking in persons and other serious offences, especially crimes constituting violations of the human rights of migrants, giving special attention to assisting and protecting victims, in particular women and children;

[Human Rights Council Resolutions](#)

[Trafficking in persons, especially women and children: access to effective remedies for trafficked persons and their right to an effective remedy for human rights violations, A/HRC/20/1, 18 July 2012](#)

Para. 4(a), 4(b) and 4(c):

4. Encourages States, guided by their human rights obligations and with a view to respect, protect and fulfil the human rights of trafficked persons, including their right to an effective remedy for human rights violations, to implement the following measures, inter alia:

(a) Ensuring that, in order to most effectively protect victims and bring their abusers to justice, national laws criminalize all forms of trafficking in persons in accordance with the provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, regardless of whether the offence is transnational in nature or involves organized crime;

(b) Ensuring adequate procedures are in place to enable rapid and accurate identification of trafficked persons with their consent, regardless of whether the offence is transnational in nature or involves organized crime;

(c) Providing trafficked persons with appropriate, relevant and understandable information on their rights, including the right to a remedy, the mechanisms and procedures available to exercise these rights, and how and where to obtain legal and other necessary assistance by, inter alia, developing guidelines and ensuring that such guidelines are properly applied;

18. Respect and support the activities of human rights defenders and others who rescue, protect and provide assistance to migrants.

“While recognizing the contribution of civil society, including non-governmental organizations, to promoting the well-being of migrants and their integration into societies, especially at times of extremely vulnerable conditions, and the support of the international community to the efforts of such organizations, we encourage deeper interaction between Governments and civil society to find responses to the challenges and the opportunities posed by international migration.”

- Para. 61, New York Declaration for Refugees and Migrants

Ensuring protection for human rights defenders has received increasing focus by the General Assembly and the Human Rights Council in recent years. For example in 2016, the General Assembly passed the [Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) resolution, which in OP 2 calls upon all States to:

‘take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights’

Trade unions can also be regarded as human rights defenders as they can offer advice and support to migrants and can raise their concerns on public platforms. The right for migrants to join trade unions reiterated in a number of international human rights law instruments, an example being article 26 of the [International Convention on the Protection of the Rights of All Migrants and Members of their Families](#) which provides that States must recognise the right of migrant workers:

‘to take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests’.

Treaty Law

International Covenant on Civil and Political Rights, 16 December 1966

Art. 22:

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

International Covenant on Economic, Social and Cultural Rights, 16 December 1966

Art. 8:

1. The States Parties to the present Covenant undertake to ensure:
 - (a). The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b). The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - (c). The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d). The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965

Art. 5(e)(ii):

The right to form and join trade unions;

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 26:

1. States Parties recognize the right of migrant workers and members of their families:

- (a). To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;
- (b). To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;
- (c). To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Art. 40:

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 9 December 1998](#)

Art. 12(2):

The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

[Convention against Corruption, 31 October 2003](#)

Art. 33:

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 61:

While recognizing the contribution of civil society, including non-governmental organizations, to promoting the well-being of migrants and their integration into societies, especially at times of extremely vulnerable conditions, and the support of the international community to the efforts of such organizations, we encourage deeper interaction between Governments and civil society to find responses to the challenges and the opportunities posed by international migration.

[Protection of migrants, resolution adopted 19 December 2017, A/RES/72/179, 29 January 2018](#)

Para. 4(l):

Requests all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

[Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Resolution adopted on 17 December 2015, A/RES/70/161, 10 February 2016](#)

Paras. 1, 2, 4, 5, 8, 10(a), 10(b), 10(c), 10(d), 12 and 15:

1. Stresses that the right of everyone to promote and strive for the protection and realization of human rights and fundamental freedoms without retaliation or fear thereof is an essential element in building and maintaining sustainable, open and democratic societies;
2. Calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights;
4. Urges States to acknowledge through public statements, policies or laws the important and legitimate role of individuals, groups and organs of society, including human rights defenders, in the promotion of human rights, democracy and the rule of law, as essential components of ensuring their recognition and protection, including by condemning publicly all cases of violence and discrimination against human rights defenders, including women human rights defenders, underlining that such practices can never be justified;
5. Strongly condemns the violence against and the targeting, criminalization, intimidation, torture, disappearance and killing of any individuals, including human rights defenders, for reporting and seeking information on human rights violations and abuses, and stresses the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including against their legal representatives, associates and family members, are promptly brought to justice through impartial investigations;

8. Calls upon States to take concrete steps to prevent and put an end to the arbitrary arrest and detention of human rights defenders, and in this regard strongly urges the release of persons detained or imprisoned, in violation of the obligations and commitments of States under international human rights law, for exercising their human rights and fundamental freedoms, such as the rights to freedom of expression, peaceful assembly and association, including in relation to cooperation with the United Nations or other international mechanisms in the area of human rights;

10(a). The promotion and protection of human rights are not criminalized or met with limitations in contravention of the obligations and commitments of States under international human rights law;

10(b). Human rights defenders, their family members, associates and legal representatives are not prevented from enjoying universal human rights owing to their work, including by ensuring that all legal provisions, administrative measures and policies affecting them, including those aimed at preserving public safety, public order and public morals, are minimally restrictive, clearly defined, determinable, non-retroactive and compatible with the obligations and commitments of States under international human rights law;

10(c). Measures to combat terrorism and preserve national security are in compliance with their obligations and commitments under international law, in particular under international human rights law, and do not jeopardize the safety or arbitrarily hinder the work of individuals, groups and organs of society engaged in promoting and defending human rights, while clearly identifying which offences qualify as terrorist acts by defining transparent and foreseeable criteria;

10(d). Where legislation and procedures governing the registration and funding of civil society organizations exist, they are transparent, non-discriminatory, expeditious, inexpensive, allow for the possibility to appeal and avoid requiring re-registration, with national legislation being in compliance with international human rights law;

12. Encourages States to develop and put in place sustainable public policies or programmes that support and protect human rights defenders at all stages of their work in a comprehensive manner;

15. Expresses concern about stigmatization and discrimination that target or affect individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs or views, or other groups vulnerable to discrimination, and calls upon States to ensure that legislation does not target the activities of individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs;

[National institutions for the promotion and protection of human rights, Resolution adopted on 17 December 2015, A/RES/70/163, 10 February 2016](#)

Paras. 5 and 6:

5. Underlines the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and in consistently informing the State about the impact of such legislation on the activities of human rights defenders, including by making relevant and concrete recommendations;
6. Recognizes the role that national human rights institutions can play in preventing and addressing cases of reprisals as part of supporting the cooperation between their Governments and the United Nations in the promotion of human rights, including by contributing to follow-up actions, as appropriate, to recommendations made by international human rights mechanisms;

[Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, Resolution adopted on 18 December 2013, A/RES/68/181, 30 January 2014](#)

Paras. 9 and 21(d):

9. Also calls upon States to exercise due diligence in preventing violations and abuses against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, who face particular risks, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats against women human rights defenders, committed by State and non-State actors, including online, are promptly brought to justice through impartial investigations;

21(d). That women human rights defenders are able to avoid situations of violence, including by preventing the occurrence or recurrence of such violence in the exercise of their important and legitimate role in accordance with the present resolution;

Human Rights Council Resolutions

[Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/32/14, 15 July 2016](#)

Para. 10:

Also calls upon all States to promote and protect the human rights of all migrants, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, including those in a vulnerable situation, regardless of their immigration status, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate;

[Protecting human rights defenders addressing economic, social and cultural rights, A/HRC/31/32, 20 April 2016](#)

Paras. 4, 5, 6, 11 and 13:

4. Urges all States to acknowledge in public statements at the national and local levels, and through laws, policies or programmes, the important and legitimate role of human rights defenders, including women human rights defenders, in the promotion of human rights, democracy and the rule of law in all areas of society, in urban and rural areas, as essential components of ensuring their recognition and protection, including those promoting and defending economic, social and cultural rights;
5. Strongly condemns the reprisals and violence against and the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing of any individual, including human rights defenders, for their advocacy of human rights, for reporting and seeking information on human rights violations and abuses or for cooperating with national, regional and international mechanisms, including in relation to economic, social and cultural rights;
6. Calls upon all States to combat impunity by investigating and pursuing accountability for all attacks and threats by State and non-State actors against any individual, group or organ of society that is defending human rights, including against family members, associates and legal representatives, and by condemning publicly all cases of violence, discrimination, intimidation and reprisals against them;
11. Stresses that legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in this regard recognizes the urgent need to review and amend policies or legislation that have the effect of limiting the work and activities of human rights defenders in contravention of international human rights law;
13. Also calls upon all States to promote and enable public participation, and to promote transparency, accountability and effective governance, in the prevention of and the fight against corruption involving State officials, business representatives as well as other non-State actors, and in raising public awareness regarding the existence, causes and gravity of and the

threat posed by corruption, including all possible impact on the enjoyment of economic, social and cultural rights, and further calls upon all States to respect, promote and protect the freedom of everyone to seek, receive, publish and disseminate information concerning corruption, including by protecting the actors doing so, including human rights defenders;

[Protecting human rights defenders, A/HRC/22/6*, 12 April 2013](#)

Paras. 3, 4, 5, 11(a) and 18:

3. Stresses that legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and, in this regard, condemns the imposition of any limitations on the work and activities of human rights defenders enforced in contravention of international human rights law;
4. Calls upon States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, including the principle of non-discrimination, and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights;
5. Urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work;
- 11.(a). The promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others, while emphasizing that everyone shall respect the human rights of others;
18. Invites leaders in all sectors of society and respective communities, including political, social and religious leaders, and leaders in business and media, to express public support for the important role of human rights defenders and the legitimacy of their work;

19. Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy.

‘We recognize the importance of improved data collection, particularly by national authorities, and will enhance international cooperation to this end, including through capacity-building, financial support and technical assistance. Such data should be disaggregated by sex and age and include information on regular and irregular flows, the economic impacts of migration and refugee movements, human trafficking, the needs of refugees, migrants and host communities and other issues’

- Para. 40, New York Declaration for Refugees and Migrants

The need to respect the right to privacy while collecting the data referred to above is acknowledged in the remainder of paragraph 40 of the [New York Declaration](#) as it concludes with:

‘We will do so consistent with our national legislation on data protection, if applicable, and our international obligations related to privacy, as applicable’.

The right to privacy is enshrined in Article 12 of the [Universal Declaration of Human Rights](#) which provides that:

‘No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.’

In [The Right to Privacy in the Digital Age](#) resolution passed by the General Assembly in 2013 affirmed that every person has the same right to privacy online as they do offline as OP 4(a):

4. Calls upon all States:

(a) To respect and protect the right to privacy, including in the context of digital communication;

Treaty Law

[Universal Declaration of Human Rights, 10 December 1948](#)

Art. 12:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

[International Covenant on Civil and Political Rights, 16 December 1966](#)

Art. 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

General Assembly Resolutions

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Paras. 25 and 40:

25. We will make efforts to collect accurate information regarding large movements of refugees and migrants. We will also take measures to identify correctly their nationalities, as well as their reasons for movement. We will take measures to identify those who are seeking international protection as refugees.

40. We recognize the importance of improved data collection, particularly by national authorities, and will enhance international cooperation to this end, including through capacity-building, financial support and technical assistance. Such data should be disaggregated by sex and age and include information on regular and irregular flows, the economic impacts of migration and refugee movements, human trafficking, the needs of refugees, migrants and host communities and other issues. We will do so consistent with our national legislation on data protection, if applicable, and our international obligations related to privacy, as applicable.

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Target 17.18 and paras. 57 and 74(g):

17.18. By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts

57. We recognize that baseline data for several of the targets remains unavailable, and we call for increased support for strengthening data collection and capacity building in Member States, to develop national and global baselines where they do not yet exist. We commit to addressing this gap in data collection so as to better inform the measurement of progress, in particular for those targets below which do not have clear numerical targets.

74(g). They will be rigorous and based on evidence, informed by country-led evaluations and data which is high-quality, accessible, timely, reliable and disaggregated by income, sex, age, race, ethnicity, migration status, disability and geographic location and other characteristics relevant in national contexts.

[The Right to Privacy in the Digital Age, Resolution adopted on 18 December 2013, A/RES/68/167, 21 January 2014](#)

Para. 3 and 4:

3. Affirms that the same rights that people have offline must also be protected online, including the right to privacy;

4. Calls upon all States:

- (a). To respect and protect the right to privacy, including in the context of digital communication;**
- (b). To take measures to put an end to violations of those rights and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;**
- (c). To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;**

(d). To establish or maintain existing independent, effective domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;

Human Rights Council Resolutions

[The Right to Privacy in the Digital Age, A/RES/34/7, 7 April 2014](#)

Para. 5:

5. Calls upon all States:

- (a). To respect and protect the right to privacy, including in the context of digital communications;
- (b). To take measures to put an end to violations of the right to privacy and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;
- (c). To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;
- (d). To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;
- (e). To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;
- (f). To develop or maintain and implement adequate legislation, with effective sanctions and remedies, that protects individuals against violations and abuses of the right to privacy, namely through the unlawful or arbitrary collection, processing, retention or use of personal data by individuals, Governments, business enterprises and private organizations;

- (g). To further develop or maintain, in this regard, preventive measures and remedies for violations and abuses regarding the right to privacy in the digital age that may affect all individuals, including where there are particular effects for women, as well as children and persons in vulnerable situations or marginalized groups;
- (h). To promote quality education and lifelong education opportunities for all to foster, inter alia, digital literacy and the technical skills required to protect effectively their privacy;
- (i). To refrain from requiring business enterprises to take steps that interfere with the right to privacy in an arbitrary or unlawful way;
- (j). To consider appropriate measures that would enable business enterprises to adopt adequate voluntary transparency measures with regard to requests by State authorities for access to private user data and information;
- (k). To develop or maintain legislation, preventive measures and remedies addressing harm from the sale or multiple resale or other corporate sharing of personal data without the individual's free, explicit and informed consent;

20. Ensure human rights-based and gender-responsive migration governance.

‘Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies’

- SDG target 10.7, Transforming our world: the 2030 Agenda for Sustainable Development

Resolutions passed by the General Assembly and the Human Rights Council contain commitments to developing human-rights based national policies, as well as bilateral and international coordination with respect to migration. For example, paragraph 9(a) of the [Protection of Migrants](#) resolution adopted by the General Assembly in 2015:

‘encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law’.

Likewise, the [Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements](#) resolution adopted by the Human Rights Council in 2016 reaffirms in paragraph 1:

‘the need to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability’

Treaty Law

Convention Relating to the Status of Refugees, 28 July 1951

Art. 33:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

International Covenant on Civil and Political Rights, 16 December 1966

Art. 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984

Art. 3:

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

Art. 17(1):

Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

Art. 31:

States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin. 2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Art. 45(2)-(4):

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Art. 64(2):

In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Art. 65(2):

States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Art. 69:

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the

circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

[International Convention for the Protection of All Persons from Enforced Disappearance, 6 February 2007](#)

Art. 16(1):

No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

[General Assembly Resolutions](#)

[New York Declaration for Refugees and Migrants, Resolution adopted on 19 September 2016, A/RES/71/1, 3 October 2016](#)

Para. 14 and annex II, para. 8(p):

14. We strongly condemn acts and manifestations of racism, racial discrimination, xenophobia and related intolerance against refugees and migrants, and the stereotypes often applied to them, including on the basis of religion or belief. Diversity enriches every society and contributes to social cohesion. Demonizing refugees or migrants offends profoundly against the values of dignity and equality for every human being, to which we have committed ourselves. Gathered today at the United Nations, the birthplace and custodian of these universal values, we deplore all manifestations of xenophobia, racial discrimination and intolerance. We will take a range of steps to counter such attitudes and behaviour, in particular with regard to hate crimes, hate speech and racial violence. We welcome the global campaign proposed by the Secretary-General to counter xenophobia and we will implement it in cooperation with the United Nations and all relevant stakeholders, in accordance with international law. The campaign will emphasize, inter alia, direct personal contact between host communities and refugees and migrants and will highlight the positive contributions made by the latter, as well as our common humanity.

8(p). Consideration of policies to regularize the status of migrants;

[Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015](#)

SDG Targets 8.8, 10.7, 17.17 and paras. 29, and 39:

8.8. Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

10.7. Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies

17.17. Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed

29. We recognize the positive contribution of migrants for inclusive growth and sustainable development. We also recognize that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. We will cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees, particularly in developing countries. We underline the right of migrants to return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received.

39. The scale and ambition of the new Agenda requires a revitalized Global Partnership to ensure its implementation. We fully commit to this. This Partnership will work in a spirit of global solidarity, in particular solidarity with the poorest and with people in vulnerable situations. It will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, the private sector, civil society, the United Nations system and other actors and mobilizing all available resources.

Violence Against Women Migrant Workers, Resolution 19 December 2017, A/RES/72/149, 17 January 2018

Paras. 31 and 34:

31. Also encourages Governments to promote coherence between migration, labour and anti-trafficking policies and programmes concerning women migrant workers, based on a human rights, gender-sensitive and people-centred perspective, to ensure that the human rights of women migrant workers are protected throughout the migration process and to enhance efforts to prevent violence against women migrant workers, prosecute perpetrators and protect and support victims and their families

34. Encourages Governments, in accordance with their applicable legal obligations, to formulate national policies concerning women migrant workers that are based on up-to-date, relevant sex-disaggregated data and analysis, in close consultation with women migrant workers and relevant stakeholders throughout the policy process, and also encourages

Governments to ensure that this process is adequately resourced and that the resulting policies have measurable targets and indicators, timetables and monitoring and accountability measures, in particular for employment agencies, employers and public officials, and provide for impact assessments and ensure multi-sector coordination within and between countries of origin, transit and destination through appropriate mechanisms;

[Protection of Migrants, Resolution adopted on 17 December 2015, A/RES/70/147, 25 February 2016](#)

Paras. 1, 9(a) and 9(c):

1. Calls upon States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants and avoiding approaches that might aggravate their vulnerability;

9(a). Requests all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, transit and destination, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

(c) Also encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law;

[Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Resolution adopted on 17 December 2015, A/RES/70/161, 10 February 2016](#)

Para. 9:

Reaffirms the urgent need to respect, protect, facilitate and promote the work of those promoting and defending economic, social and cultural rights, as a vital factor contributing towards the realization of those rights, including as they relate to environmental and land issues as well as development;

[Violence Against Women Migrant Workers, Resolution 70/130 adopted on 17 December 2015, A/RES/70/130, 8 February 2016](#)

Para. 24:

Also encourages Governments to promote coherence between migration, labour and anti-trafficking policies and programmes concerning women migrant workers, based on a human rights, gender-sensitive and people-centred perspective, to ensure that the human rights of women migrant workers are protected throughout the migration process and to enhance efforts to prevent violence against women migrant workers, prosecute perpetrators and protect and support victims and their families.

[Declaration of the High-level Dialogue on International Migration and Development, Resolution 68/4 adopted on 3 October 2013, A/RES/68/4, 21 January 2014](#)

Paras. 3, 10, 23:

3. Decide to work towards an effective and inclusive agenda on international migration that integrates development and respects human rights by improving the performance of existing institutions and frameworks, as well as partnering more effectively with all stakeholders involved in international migration and development at the regional and global levels;

10. Reaffirm the need to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

23. Recognize the importance of coordinated efforts of the international community to assist and support migrants stranded in vulnerable situations and facilitate, and cooperate on when appropriate, their voluntary return to their country of origin, and call for practical and action-oriented initiatives aimed at identifying and closing protection gaps;

[Protection of Migrants, Resolution 66/172 adopted on 19 December 2011, A/RES/66/172, 29 March 2012](#)

Para. 8 and 9(f):

8. Encourages Member States that have not already done so to enact domestic legislation and to take further effective measures to combat international trafficking in persons and smuggling of migrants, recognizing that these crimes may endanger the lives of migrants or subject them to harm, servitude or exploitation, which may also include debt bondage, slavery, sexual exploitation or forced labour, and also encourages Member States to strengthen international cooperation to combat such trafficking and smuggling;

9(f). Encourages States, relevant international organizations and civil society, including non-governmental organizations, to continue and to enhance their dialogue with a view to strengthening public policies aimed at promoting and respecting human rights, including those of migrants;

Human Rights Council Resolutions

[Unaccompanied migrant children and adolescents and human rights, A/HRC/RES/36/5, 4 October 2017](#)

Para. 9:

Calls upon all States to ensure that their immigration policies are consistent with their obligations under international law, including, as applicable, human rights and humanitarian law, and to promote the enjoyment of human rights by all migrants without discrimination, including by taking steps to increase cooperation and coordination at all levels to detect and to end serious human rights violations and abuses, in particular trafficking and smuggling of migrant children and other forms of abuse and exploitation;

[Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, A/HRC/RES/35/17, 22 June 2017](#)

Para. 13:

Also calls upon all States to adopt a comprehensive and integral approach to migration policies, to facilitate safe, orderly, regular and responsible migration and mobility of people, to cooperate at the international level on the basis of shared

responsibility to harness fully the economic developments and cultural and social opportunities that migration represents, and to address efficiently its challenges in accordance with international human rights standards;

[Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements, A/HRC/32/14, 15 July 2016](#)

Paras. 1, 9 and 11:

1. Reaffirms the need to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, including those of women, children and persons with disabilities, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

9. Calls upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination;

11. Further calls upon all States to adopt a comprehensive and integral approach to migration policies, and to cooperate at the international level on the basis of shared responsibility to harness fully the economic developments and cultural and social opportunities that migration represents and to address efficiently its challenges in line with international human rights standards;

[Protecting human rights defenders addressing economic, social and cultural rights, A/HRC/31/32, 20 April 2016](#)

Para. 4:

Urges all States to acknowledge in public statements at the national and local levels, and through laws, policies or programmes, the important and legitimate role of human rights defenders, including women human rights defenders, in the promotion of human rights, democracy and the rule of law in all areas of society, in urban and rural areas, as essential components of ensuring their recognition and protection, including those promoting and defending economic, social and cultural rights;

[Protection of the human rights of migrants: migrants in transit, A/HRC/RES/29/2, 22 July 2015](#)

Para. 7(i):

To adopt a comprehensive and integral approach to migration policies and cooperate at the international level on the basis of shared responsibility to harness fully the economic developments and cultural and social opportunities that migration represents and to address efficiently its challenges in line with international human rights standards;



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