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Quaker United Nations Office



Foundations for Implementation

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

December 2018

This paper is produced as a continuation of our work to support an ambitious, effective and human rights based Global Compact for Safe, Orderly and Regular Migration. As we all move from development of the Compact to implementation this reference document is intended to inform and support States' application of the Global Compact.

To see previous papers published during the development of the Global Compact for Migration, please visit: quno.org/resources/Refugees-and-Migrants.

Human Rights & Refugees

QUNO's belief in the inherent worth of every individual leads us to work for the promotion and protection of human rights for all. Our Human Rights & Refugees programme raises up concerns about marginalized groups, including migrants, so they are better understood by international policy makers, which leads to stronger international standards.

States can use these strengthened international standards to guide their action to limit suffering, improve lives and challenge the root causes of injustice. Frontline organizations can use them as a tool for change.

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Introduction

Prompted by the recognition that many aspects of migration governance are not working for migrants or States, the Global Compact for Safe, Orderly and Regular Migration presents a meaningful opportunity for a shift in how migrants are treated. Delivering the objectives and actions of the Compact in line with its guiding principles of a people centred and human rights based approach will be key to effective implementation and making the most of this unprecedented opportunity.

This reference tool consists of existing recommendations (drafted prior to the completion of the Compact) from the UN's Special Procedures and Treaty Bodies presented in line with the Compact's 23 objectives. The result is a compilation of authoritative guidance to assist States in meeting the agreed objectives through practical actions.

As the New York Declaration reaffirms, the entire human rights framework applies to migrants regardless of status—all are rights holders. Therefore, the full body of recommendations from Special Procedures and Treaty Bodies is relevant to guiding policy and practice that upholds the human rights of migrants. However, in order to make this a working tool and to recognise that the specific situations of migrants can require specific responses, we have drawn only on those recommendations that explicitly address the realisation of the human rights of migrants.

As States, the UN and civil society adjust to this new cooperative framework more comprehensive guidance will emerge. This reference tool is a foundation for those States wanting to be at the front of a race to the top to put people at the centre of action on migration, and to turn the Compact into a living resource.

The UN's Special Procedures and Treaty Bodies

The Special Procedures and Treaty Bodies have monitoring functions but also advisory roles both general and in regard to specific States. The Special Procedures are independent experts requested by States to provide guidance and clarification of particular rights or the implementation of the human rights framework for particular groups of people. The Treaty Bodies were established by States to provide oversight of implementation of human rights treaty law.

They are a rich resource in all policy areas and certainly in the field of migration policy and practice. Our research found recommendations and guidance relevant to all but one of the objectives. Much of this guidance unpacks the practicalities of how to achieve the objective and deliver on the people centred and human rights guiding principles.

In the absence of an independent technical advisory body to guide implementation of the Global Compact, the Special Procedures and Treaty Bodies can play a significant role in fulfilling the need for increased technical guidance expressed by States throughout the consultation, stocktaking and negotiation phases. They should be a core part of implementation, follow up and review at the national, regional and international level.

Using This Reference Tool

This publication is intended as a reference tool rather than a manual and it is not designed to be read cover to cover. We encourage its use as a resource that can be referred to as assessments of national policy and practice are undertaken, as new policies are drafted, and as bilateral and mini-lateral agreements are developed. We encourage referral back to the full recommendations of many of the source documents that are reproduced in part in this reference tool. Further, we strongly encourage use of the relevant guidelines produced by the Office of the High Commissioner for Human Rights and the Global Migration Group.

What This Reference Tool Contains

This compilation draws on recommendations from:

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

There is undoubtedly useful guidance in Special Procedures' country reports and in Treaty Body concluding observations that have relevance to other States than those to whom they are specifically addressed. However, it was beyond the scope of this project to include those recommendations at this stage. The recommendations pre-date the Global Compact and were not written with it in mind. We have not rewritten or re-interpreted the text, we have simply placed them under the objectives where, in our analysis, they fit. As repeatedly recognised during the consultation, stocktaking and negotiation phases, all aspects of migration are interrelated; many recommendations are, therefore, relevant to multiple objectives, but to avoid repetition we have placed these under the objective they most closely relate to.

With the aim of developing a practical tool the emphasis is on recommendations for individual State action rather than observations, and on inclusion of those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact. Similarly, older recommendations have been left out where they have been superseded in more recent reports, or in the Compact or other developing international standards.

Into the Implementation Phase

These recommendations and future work by the Special Procedures and Treaty Bodies can contribute to States' assessment of their current policy and practice and development of national implementation plans. However, the words on the page are only a part of the Special Procedures and Treaty Bodies' work and we encourage States to engage constructively with them to draw on their expertise bilaterally and, in the case of Special Procedures, during interactive dialogues in the Human Rights Council and General Assembly.

We look forward to seeing the results of a shift in migration governance and to working with States and other stakeholders to support ambitious, effective and human rights based implementation of the Global Compact.

Objective 1: Collect and utilize accurate and disaggregated data as a basis for evidence-based policies

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2015), A/70/310 (section A (p.24))	Work in partnership with the relevant international organizations to further develop a collective understanding of global trends in international labour recruitment
SR migrants (2015), A/HRC/29/36 (para.95)	Invest in filling data gaps — such as those around underground labour markets, labour exploitation of migrants, deaths at sea and push and pull factors — to develop evidence-based policies. In addition, increase harmonization and coordination in respect of migration data sources to develop a systemic picture
SR migrants (2014), A/69/302 (para.109(f))	Ensure the systematic disaggregation of indicators by migrant status (e.g. by nationality and by migration and residence status), in addition to disaggregation by all prohibited grounds of discrimination, including age, gender, income, disability, rural/urban area, nationality and disability, in all relevant goals;
Special Rapporteur on the human rights of migrants (2010), A/65/222 (para.108)	States should strengthen efforts to collect data and measure the impact of their migration policies on the enjoyment of human rights by migrants and societies at large at all stages of the migration process
SR migrants (2010), A/65/222 (para.109)	States are especially encouraged to share information about key indicators of the impact of migration programmes, plans and policies to address irregular migration, as well as common challenges and best practices at all levels across boundaries and regions
SR migrants (2010), A/65/222 (para.110)	Stakeholders should make available statistical and substantive information on, inter alia: (a) The root causes of migration; (b) The demand of migrant labour, including irregular migrant labour, in countries of destination; (c) The distinction between immigration control and crime prevention
SR migrants (2010), A/65/222 (para.111)	The Special Rapporteur recommends the compilation and sharing of best practices in addressing irregular migration to help States and other stakeholders to develop human rights-based public policies
SR migrants (2009), A/HRC/11/7 (para.89)	States are especially encouraged to share across boundaries and regions information about key indicators of the impact of migration on children, as well as common challenges and best practices to address migrant children protection-related gaps at all levels. It is also important that stakeholders contribute to make available statistical and substantive information on, inter alia, the root causes of migration of children and adolescents (with family members or unaccompanied), to help States to identify policy gaps

<p>SR migrants (2009), A/HRC/11/7 (para.94)</p>	<p>The Special Rapporteur encourages the collection of data at the national level and the preparation of studies and research on unaccompanied or separated children</p>
<p>SR migrants (2008), A/HRC/7/12 (para.72)</p>	<p>States should bolster their ability to analyse data about migration policy. In support of individual States' domestic policies, laws and practices that have cross-border effects, an observatory could be established to compile accurate statistical and related data and to provide independent, impartial and expert analyses of key aspects of migration policy in order to discern their successes and deficiencies</p>
<p>SR migrants (2008), A/HRC/7/12 (para.73)</p>	<p>States should take further measures to enhance annual quantitative data on labour demand by host countries, which is the driving force behind economic migration, in an effort to better regulate the supply of labour migrants with the needs of host countries. Host countries and countries of origin each need to identify, respectively, current and projected labour supply shortages and surpluses by economic sector, occupation, region and province; furthermore, differentiation between labour shortages that are structural and those that are seasonal or otherwise temporary is important for designing and implementing effective labour migration policies</p>
<p>Special Rapporteur on the human rights of migrants (2006), A/61/324 (para.56)</p>	<p>The acknowledgement of the existence of this demand [for migrant labour and migrants' participation in the labour market of receiving countries] should begin with the collection and/or publication by Governments of data on the presence of migrant labour in their countries, by sector of the economy, over the past five years</p>
<p>SR migrants (2003), E/CN.4/2003/85 (para.75(f))</p>	<p>Official statistics should be kept on the percentage of migrants deprived of their liberty out of the total number subject to administrative detention;</p>
<p>Special Rapporteur on torture (2018), A/HRC/37/50 (para.65(f))</p>	<p>Data collection and firewalls: States and other stakeholders working with migrants should develop reliable systems of representative data collection with a view to fostering a better understanding of the prevalence of victims of torture and ill-treatment among various migrant populations, the cause and circumstances of such abuse, the specific needs of the victims and their experience upon return. In doing so, States should establish systems that effectively protect personal rights, including firewalls between data collected for identification and protective purposes and data collected for the purposes of law enforcement and criminal justice</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.106)</p>	<p>States should monitor and record, at borders, points of arrival or disembarkation, all allegations of suspicious death or disappearances for investigation and trend analysis</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.116)</p>	<p>Identification, tracing and burial of the dead. States should establish centralized regional databases and mechanisms to link existing national databases</p>

Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.117)	States should establish firewalls between criminal/enforcement data collection and data collected for identification
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(c))	Encourage collection of disaggregated data by age and gender of all migrant workers, to assess their level of health-related knowledge, health needs and occupational injuries and deaths, including suicide, and accordingly inform policies regarding migrant workers. Such information should be protected by adequate data protection measures to ensure privacy and confidentiality of the data;
Special Rapporteur on trafficking in persons, especially women and children (2007), A/HRC/4/23 (para.63(i))	States ensure that gender-disaggregated data on the incidence of forced marriages internationally, regionally and nationally are collected, reported and compared as part of crime, gender equality and migration statistics;
Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2009), A/HRC/12/21 (para.98)	Research needs to be developed on bonded labour with regard to its links to land reform, the impact of privatization programmes, access to microcredit, labour migration policies, and immigration and foreign labour recruitment policies. This research should contain gender- and age-specific data

Guidance from Treaty Bodies

Source	Guidance
CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.I.5)	States parties should include in their periodic reports, in an appropriate form, socio-economic data on the non-citizen population within their jurisdiction, including data disaggregated by gender and national or ethnic origin
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.32)	States of origin and employment are encouraged to cooperate on...regular and public reporting of migrant domestic worker flows, employment, rights issues, training and other programmes, and issues of justice administration
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.66)	States parties should include in their reports information about efforts to monitor the situation of migrant domestic workers, including through the provision of statistical data, and to protect their rights under the Convention
CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.23)	States parties should conduct and support quantitative and qualitative research, data collection and analysis to identify the problems and needs faced by women migrant workers in every phase of the migration process in order to promote the rights of women migrant workers and formulate relevant policies
CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.g.29)	States parties must protect the confidentiality of information received in relation to an unaccompanied or separated child, consistent with the obligation to protect the child's rights, including the right to privacy (art. 16). This obligation applies in all settings, including health and social welfare. Care must be taken that information sought and legitimately shared for one purpose is not inappropriately used for that of another

<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.g.30)</p>	<p>Confidentiality concerns also involve respect for the rights of others. For example, in obtaining, sharing and preserving the information collected in respect of unaccompanied and separated children, particular care must be taken in order not to endanger the well-being of persons still within the child's country of origin, especially the child's family members. Furthermore, information relating to the whereabouts of the child shall only be withheld vis-à-vis the parents where required for the safety of the child or to otherwise secure the "best interests" of the child</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.b.100)</p>	<p>Data collected within such a system should ideally include but not be limited to: basic biographical data on each child (including age, sex, country of origin and nationality, ethnic group); total number of unaccompanied and separated children attempting to enter the country and the number that have been refused entry; number of requests for asylum; number of legal representatives and guardians assigned to such children; legal and immigration status (i.e. asylum-seeker, refugee, temporary resident permit); living arrangements (i.e. in institutions, with families or living independently); enrolment in school or vocational training; family reunifications; and, numbers returned to their country of origin. In addition, States parties should consider collecting qualitative data that would allow them to analyse issues that remain insufficiently addressed, such as for instance, disappearances of unaccompanied and separated children and the impact of trafficking</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.II.16)</p>	<p>States parties should develop a systematic rights-based policy on the collection and public dissemination of qualitative and quantitative data on all children in the context of international migration in order to inform a comprehensive policy aimed at the protection of their rights. Such data should be disaggregated by nationality, migration status, gender, age, ethnicity, disability and all other relevant statuses to monitor intersectional discrimination. The Committees stress the importance of developing indicators to measure the implementation of the rights of all children in the context of international migration, including through a human rights-based approach to data collection and analysis on the causes of unsafe migration of children and/or families. Such information should be available for all stakeholders, including children, in full respect of privacy rights and data protection standards. Civil society organizations and other concerned actors should be able to participate in the process of collecting and evaluating data</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.II.17)</p>	<p>Children's personal data, in particular biometric data, should only be used for child protection purposes, with strict enforcement of appropriate rules on collection, use and retention of, and access to, data. The Committees urge due diligence regarding safeguards in the development and implementation of data systems, and in the sharing of data between authorities and/or countries. States parties should implement a "firewall" and prohibit the sharing and use for immigration enforcement of the personal data collected for other purposes, such as protection, remedy, civil registration and access to services. This is necessary to uphold data protection principles and protect the rights of the child, as stipulated in the Convention on the Rights of the Child</p>

Objective 2: Minimize the adverse drivers and structural factors that compel people to leave their country of origin

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2012), A/67/299 (para.93(e))	States should devise and implement local and national migration policies and strategies to facilitate internal climate-change-induced migration, where needed, including through building urban infrastructure that is sustainable, flexible and inclusive in order to accommodate internal migrants. Such policies and strategies should fully respect their domestic laws and obligations under international human rights norms and standards, including the political participation of vulnerable populations, as well as means of redress available to migrants against human rights violations;
SR Migrants (2018), A/HRC/38/41 (para.93(g))	In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: refrain from making development aid programmes, visa facilitation and trade liberalization conditional to migration management;
SR Migrants (2015), A/70/310 (section A (p.18))	Recognize the push factors related to precarious labour migration and, within the context of the post-2015 sustainable development goals agenda and other international and national policy initiatives, promote decent work opportunities for people at home. Decent work will empower people to make informed decisions about whether to seek work overseas and deal with recruitment processes from a position of choice
SR Migrants (2015), A/70/310 (section A (p.18))	In further recognition of migration push factors, invest in sufficient social protection systems in countries of origin to ensure that poverty, and/or economic or environmental shocks do not force people into precarious labour migration
SR Migrants (2012), A/67/299 (para.93(b))	Considering the difficulty of obtaining reliable data on climate-change-induced migration, States, and especially States with economic means, should provide more support for research on climate-change-induced migration, including on the definition of such migration, and the production of reliable disaggregated statistical data, that would allow policymakers at all levels of governance to identify the populations most at risk of climate-change-induced displacement and develop strategies to alleviate their vulnerability;
SR Migrants (2012), A/67/299 (para.93(c))	In their assessment and planning programmes for devising mitigation and adaptation strategies in order to cope with climate change, States must identify the priority vulnerable populations who are susceptible to migrate internally or internationally for causes at least partly related to climate change, as well as those who should migrate but are not able to do so, and identify their specific needs;

<p>SR Migrants (2012), A/67/299 (para.93(f))</p>	<p>States should devise and implement regional migration policies and strategies to facilitate international climate-change-induced migration, where needed, including through the negotiation, conclusion and implementation of regional migration agreements. Such policies and strategies should be elaborated by all States concerned within the region, with the support and assistance of donor States. Such policies and strategies should also be elaborated with the support and collaboration of regional intergovernmental organizations, international organizations, international financial institutions, international NGOs and civil society organizations. Such policies and strategies should fully respect the international and regional human rights frameworks, including appropriate human rights guarantees for all migrants, the political participation of the vulnerable populations concerned in all decisions regarding their migration, as well as means of redress available to all migrants against human rights violations;</p>
<p>Special Rapporteur on the right to food (2007), A/HRC/4/30 (para.69(e))</p>	<p>All Governments and international agencies should address the root causes of migration and armed conflict, including realizing the right to food in those countries where people have little option but to flee their own countries or where children are forced to enlist in armed groups in order to procure food for themselves and their families;</p>
<p>Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2017), A/72/139 (para.59(f))</p>	<p>To tackle the socioeconomic drivers of contemporary forms of slavery to achieve target 8.7 of the Sustainable Development Goals and implement the 2030 Agenda, Member States should: Ensure policy coherence between all efforts to tackle the socioeconomic drivers of contemporary forms of slavery as part of the full and effective implementation of the Goals and other areas of related policy, including trade and investment, migration and border management;</p>

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 3: Provide accurate and timely information at all stages of migration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.76(c))	With regard to migrant boys and girls States should: Provide them with information — that is age-appropriate and tailored to their needs — on their rights and how to obtain redress;
Special Rapporteur on the human rights of migrants (2015), A/70/310 (Section A (p.23))	Increase and improve pre-departure training and information in order to promote informed decision-making and enhance the skill levels of prospective migrants, including language and general skills
SR migrants (2014), A/HRC/26/35 (para.98)	Countries of origin should provide prospective migrants with information on regular migration channels, on the risks associated with irregular migration and on recourses available to them in case of abuse and exploitation
SR migrants (2014), A/HRC/26/35 (para.106)	Empower migrants, whatever their status, to defend their own human rights without fear of retribution, provide them with appropriate normative, institutional and programmatic tools in that regard, and support them in their fight against abuse and exploitation.
SR migrants (2010), A/HRC/14/30 (para.74)	As newly-arrived migrants may encounter practical difficulties in obtaining information which enables them to meaningfully exercise their rights, States should provide free information and advice on relevant laws, policies and regulations and local practice as well as language training for migrants who do not speak the language of the host States
SR migrants (2010), A/HRC/14/30 (para.82)	States of origin should also provide free or affordable gender-sensitive pre-departure information and training programmes which raise migrant women's and girls' awareness of potential risks to their health
SR migrants (2008), A/HRC/7/12 (para.70)	States should take measures to inform potential migrants about the risks associated with smuggling and trafficking operations, as well as the rights afforded to migrants even if in an irregular situation, particularly if detention is used. Particular attention should be paid to the gender-specific stigmatization associated with irregular migration and to the exploitation of children in all forms
Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2018), A/HRC/39/52 (para.82(q))	To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: Promote informed decision-making and a shift in the attitudes of employers regarding the human rights of domestic workers, including of migrants, through awareness-raising and information campaigns in languages understandable to migrant workers;
SR slavery (2010), A/HRC/15/20 (para.97)	National authorities, cooperating with domestic workers associations, unions and national human rights institutions, should launch campaigns to inform prospective and current domestic workers what rights they have and how they can enforce them. Information has to be provided in places and languages accessible to all domestic workers, including migrants

Special Rapporteur on trafficking in persons, especially women and children (2010), A/65/288 (para.72)	States should increase efforts to reach out to populations at a higher risk of being trafficked and disseminate accurate and realistic information about risks of migration and trafficking, as well as practical advice on how to seek assistance when prospective migrants face problems
SR trafficking (2010), A/65/288 (para.73)	Migrants' States of origin should provide all prospective migrants with pre-departure training that respects human rights and provides realistic information about the risk of abusive forms of migration. Receiving States, in cooperation with embassies and consular authorities, should provide migrants with orientation training upon their arrival that informs them about their rights and obligations as migrants, including remedies available for abuse and exploitation by employers and other parties
Special Rapporteur on violence against women, its causes and consequences (2000), E/CN.4/2000/68 (para.122(i))	Establish labour information centres to provide up-to-date, practical information on all aspects of labour migration
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(d))	Provide potential migrant workers with information about their rights, particularly the right to health, as well as about recruitment agencies, employers and States, recourse for redress and protection from abuse;
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2010), A/65/295 (para.98)	The Special Rapporteur recommends that States provide relevant training and information to migrants, refugees and asylum-seekers, so that they may be made aware of their rights and of the existing mechanisms which will guarantee their protection

Guidance from Treaty Bodies

Source	Guidance
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.28)	For nationals considering whether to migrate for domestic work, States parties should take appropriate measures to disseminate information on their rights under the Convention as well as the conditions of their admission and employment and their rights and obligations under the law and practice of other States (article 33). Such awareness-raising could include: (a) Information on different types and arrangements of domestic work; (b) Basic knowledge of applicable national and transnational legal frameworks; (c) Essential information and perspectives on: (i) Migration-related fees and debts; (ii) Family aspects and effects on family life, such as separation, right to family visits or return, pregnancy during employment, etc; and (iii) Other risks of domestic work outside the country of origin

<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.29)</p>	<p>For workers who have made the decision to migrate for domestic work, States parties are encouraged to develop more specific pre-departure training and awareness-raising programmes. Such training may be developed in consultation with relevant non-governmental organizations, migrant domestic workers and their families, and recognized and reliable recruitment agencies, and could cover: (a) A comprehensive “know your rights” curriculum, covering both international and national frameworks, using the Convention as a reference; (b) “Know your obligations” orientation to essential aspects of the law and culture of the country of employment; (c) “Awareness-raising” training, including issues of migration, working conditions, social security, debt, finance and work-related fees and basic knowledge on methods of conflict resolution, and avenues of redress; (d) Financial literacy, including information on remittances and saving schemes; (e) Contact information for emergency assistance, including embassies and consulates and relevant civil society organizations in countries of employment; and (f) Other information needed on logistics, safety, health, human rights issues and points of assistance during the entire migratory process</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.30)</p>	<p>Where appropriate, State parties could also support pre-departure training offering: (a) Basic language preparation; (b) Training for specific types of work, including key job skills where appropriate; and (c) Cross-cultural destination-specific orientation</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>States parties should develop an appropriate education and awareness-raising programme in close consultation with concerned non-governmental organizations, gender and migration specialists, women workers with migration experience and reliable recruiting agencies. In that regard, States parties should (articles 3, 5, 10 and 14): (i) Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers’ awareness of potential exploitation, including: recommended contents of labour contracts, legal rights and entitlements in countries of employment, procedures for invoking formal and informal redress mechanisms, processes by which to obtain information about employers, cultural conditions in countries of destination, stress management, first aid and emergency measures, including emergency telephone numbers of home embassy, and services; information about safety in transit, including airport and airline orientations and information on general and reproductive health, including HIV/AIDS prevention. Such training programmes should be targeted to women who are prospective migrant workers through an effective outreach programme and held in decentralized training venues so that they are accessible to women...(v) Promote community awareness-raising concerning the costs and benefits of all forms of migration for women and conduct cross-cultural awareness raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security and the need to maintain a balance between women’s familial responsibility and their responsibility to themselves. Such an awareness-raising programme could be carried out through formal and informal educational programmes</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26)</p>	<p>States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees, such as criminal justice officers, border police, immigration authorities, border police and social service and health-care providers (article 3)</p>

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2001), E/CN.4/2001/83 (para.114)	The Special Rapporteur recommends that States should develop documentation programmes for its citizens, adults and children alike, not only for national purposes but, above all, for when they are outside their countries as migrants, since the possession of documents gives them access to fundamental rights. Such documents include birth certificates, identity papers and records, needed to work, study and have access to health facilities in the countries to which they are migrating
Special Rapporteur on trafficking in persons, especially women and children (2018), A/73/171 (para.73(d))	In relation to the prevention of trafficking in persons: Ensure birth and marriage registration free of charge, especially in refugee, internally displaced persons camps and host communities, as well as any other registration system which facilitates early warnings on missing and/or trafficked people, in cooperation with United Nations agencies and programmes;
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018): List of additional recommendations in relation to report, A/HRC/38/52 (p.2)	Facilitate effective and non-discriminatory access to civil registration and adequate documentation, including birth certificates and documents needed to prove nationality or the entitlement to nationality. Pay particular attention to ensuring registration and access to adequate documentation for the following individuals: persons living in remote areas; children born outside of health facilities; persons belonging to minorities and marginalized groups, including Gypsy, Roma and Traveller communities, indigenous peoples, refugees, asylum seekers, internally displaced persons, and migrants living in irregular situations
Special Rapporteur on minority issues (2018), A/73/205 (para.59)	States must grant nationality to all children born on their territory if the child would otherwise be stateless, regardless of the immigration status of the parents
Special Rapporteur on extreme poverty and human rights (2012), A/HRC/21/39 (para.70(d))	Identify and remove barriers that impede access to birth registration of disadvantaged groups at particular risk of poverty, such as asylum seekers, stateless persons, persons with disabilities and undocumented migrants;
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018): List of additional recommendations in relation to report, A/HRC/38/52 (p.2)	Grant nationality to children born in their territory who would otherwise be stateless, regardless of their parents' immigration status. In this context, facilitate the automatic conferral of nationality at birth, without additional application procedures

Guidance from Treaty Bodies

Source	Guidance
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.4.79)</p>	<p>States parties are obliged to ensure that children of migrant workers are registered soon after birth, irrespective of the migration status of their parents, and provided with birth certificates and other identity documents (art. 29). States parties shall not require migrant workers to present a residence permit in order to register a child, as this would effectively deprive migrant children in an irregular situation of their right to birth registration, which can also deny them access to education, health services, employment and other rights</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.58)</p>	<p>Children of migrant domestic workers shall be registered soon after birth, independently of the migration status of their parents, and be provided with birth certificates and other identity documents States should take all appropriate measures to ensure that children are not deprived of a nationality (article 29)</p>
<p>CEDAW General recommendation No.32: on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women (2014), CEDAW/C/GC/32 (para.V.A.55)</p>	<p>Naturalization requirements may also indirectly discriminate against women because they may require the fulfilment of conditions or criteria that may be more difficult to meet for women than for men, such as acquiring proficiency in a host State's language, which may be more difficult for women, including stateless women, who have suffered prior or current impediment of their right of access to formal education. Other requirements such as economic self-sufficiency or property ownership may also be more difficult for women to meet as individuals. Situations of statelessness following marriage to a foreigner and naturalization requirements can lead to women being dependent on men economically, socially, culturally and linguistically and, in turn, expose women to an increased risk of exploitation</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:..States parties should ensure that women have equal and independent access to travel documents</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26)</p>	<p>Legal protection for the freedom of movement: States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to women migrants</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.D.1.21)</p>	<p>The Committees urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. Children who have not been registered should be ensured equal access to health care, protection, education and other social services</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.D.1.22)</p>	<p>Should a child's identity documents have been procured irregularly on his or her behalf and the child requests the restoration of his or her identity documents, States parties are encouraged to adopt flexible measures in the best interests of the child, specifically by issuing corrected documents and avoiding prosecution where falsification has been committed</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.D.2.24)</p>	<p>While States are not obliged to grant their nationality to every child born in their territory, they are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he or she is born. A key measure is the conferral of nationality to a child born on the territory of the State, at birth or as early as possible after birth, if the child would otherwise be stateless</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.D.2.25)</p>	<p>Nationality laws that discriminate with regard to the transmission or acquisition of nationality on the basis of prohibited grounds, including in relation to the child and/or his or her parents' race, ethnicity, religion, gender, disability and migration status, should be repealed. Furthermore, all nationality laws should be implemented in a non-discriminatory manner, including with regard to residence status in relation to the length of residency requirements, to ensure that every child's right to a nationality is respected, protected and fulfilled</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.D.2.26)</p>	<p>States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. When the law of a mother's country of nationality does not recognize a woman's right to confer nationality on her children and/or spouse, children may face the risk of statelessness. Likewise, where nationality laws do not guarantee women's autonomous right to acquire, change or retain their nationality in marriage, girls in the situation of international migration who married under the age of 18 years may face the risk of being stateless, or be confined in abusive marriages out of fear of being stateless. States should take immediate steps to reform nationality laws that discriminate against women by granting equal rights to men and women to confer nationality on their children and spouses and regarding the acquisition, change or retention of their nationality</p>

Objective 5: Enhance availability and flexibility of pathways for regular migration

Guidance from Special Procedures

5

Source	Guidance
<p>Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(a))</p>	<p>Ensure equal access for migrants and provide them with reliable legal information, competent and affordable legal representation, effective legal aid, and competent translation and interpretation services; waive legal fees for all migrants who cannot afford them; and protect migrants by regularizing their status, giving them special visas or taking other protective measures for victims of trafficking and forced labour;</p>
<p>SR migrants (2018), A/HRC/38/4 (para.90)</p>	<p>When migrants in an irregular situation are long established in a host country, lack ties to their country of origin or would otherwise face violations of their human rights upon return, alternatives to forced returns, such as regularization, temporary or long-term options for entry and stay, access to citizenship or the facilitation of family reunifications, are preferable. States should offer migrants in need of human rights protection but who do not qualify for refugee status temporary or long-term protection from return</p>
<p>SR migrants (2016), A/HRC/32/40 (para.92(c))</p>	<p>To address the direct impact of international trade on the human right of migrants, the Special Rapporteur recommends that: States ensure that trade and mobility agreements do not erode existing social and mobility protections granted through commitments in other agreements;</p>
<p>SR migrants (2015), A/70/310 (section A (p.18))</p>	<p>Develop whole-system, human-rights-based frameworks for overall migration and border management that take into account the rights and needs of migrant workers, and the benefits of organized mobility, and incentivize regular, open and facilitated labour migration</p>
<p>SR migrants (2015), A/70/310 (section A (p.21))</p>	<p>Develop bilateral agreements on labour migration between countries of destination and origin, which are based on international standards and prioritize the full implementation of the human rights and labour rights of migrants and fully incorporate the voices of both migrants and civil society</p>
<p>Special Rapporteur on the human rights of migrants (2015), A/70/310 (section A (p.23))</p>	<p>Develop mechanisms whereby longer-term migrant workers, who make a valuable contribution to the economies of destination countries, whatever their skill level, are able to access opportunities for permanent residency and citizenship</p>

<p>SR migrants (2014), A/HRC/26/35 (para.70)</p>	<p>Establish coherent and comprehensive gender-sensitive national migration policies addressing all stages of the migration process, coordinated across government and developed in widespread consultation with national human rights institutions, the private sector, employers' and workers' organizations, civil society and migrants themselves, and with the support of international organizations. Ministries responsible for, inter alia, health, education, employment, children and social policies should be fully involved in the elaboration of such migration policies. The policies should have a human rights-based approach, and should include ethical recruitment practices, effective implementation of labour standards for all migrant workers, meeting labour needs at all skills levels, and more effective matching of labour supply and demand</p>
<p>Special Rapporteur on the human rights of migrants (2014), A/HRC/26/35 (para.92)</p>	<p>Provide temporary migrant workers who are filling permanent labour needs with long-term residence permits, and provide permanent residence permits to circular migrants after a certain period. Ensure that temporary migrant workers have access to economic and social rights and protection from exploitation</p>
<p>SR migrants (2015), A/70/310 (section A (pp.23-4))</p>	<p>Work with the private sector to ensure that a full understanding of the real needs and gaps with the labour market is reflected in the development of overall migration management systems, based on human rights standards</p>
<p>SR migrants (2015), A/HRC/29/36 (para.101)</p>	<p>Develop and incentivize other regular and safe migration channels, including for workers with varying skills levels, including for low-wage workers. Look at a variety of options for legal migration, such as humanitarian admission, humanitarian visas, temporary protection, family reunification, economic admissions at all skills levels, as well as for job seeking, student mobility and medical evacuation</p>
<p>SR migrants (2014), A/HRC/26/35 (para.71)</p>	<p>Address the pull factors for irregular migration, namely the unrecognized need for migrant labour in destination States, including for low-skilled workers, and the corresponding need to open up a greater number of regular migration channels and effectively sanction exploitative employers of irregular migrants, which would lead to fewer instances of irregular migration, and less exploitation of irregular migrants</p>
<p>SR migrants (2014), A/HRC/26/35 (para.94)</p>	<p>Repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. Prohibit by law mandatory pregnancy testing and deportation of women migrants who are pregnant. Take all the necessary measures to combat gender-based violence</p>
<p>SR migrants (2014), A/HRC/26/35 (para.96)</p>	<p>Combat abuse against irregular migrants, and implement sanctions against employers who exploit them. Countries of destination should establish regular migration channels based on the demand and recognized labour needs. They should consider regularization processes in order to avoid, or resolve, situations in which migrants are in, or at risk at becoming, in an irregular situation</p>

<p>SR migrants (2012), A/67/299 (para.93(f))</p>	<p>States should devise and implement regional migration policies and strategies to facilitate international climate-change-induced migration, where needed, including through the negotiation, conclusion and implementation of regional migration agreements. Such policies and strategies should be elaborated by all States concerned within the region, with the support and assistance of donor States. Such policies and strategies should also be elaborated with the support and collaboration of regional intergovernmental organizations, international organizations, international financial institutions, international NGOs and civil society organizations. Such policies and strategies should fully respect the international and regional human rights frameworks, including appropriate human rights guarantees for all migrants, the political participation of the vulnerable populations concerned in all decisions regarding their migration, as well as means of redress available to all migrants against human rights violations;</p>
<p>SR migrants (2009), A/HRC/11/7 (para.87)</p>	<p>Migration policies, programmes and bilateral agreements should preserve family unity, including by facilitating family reunification and interaction among family members</p>
<p>SR migrants (2008), A/HRC/7/12 (para.61)</p>	<p>States should incorporate the applicable human rights framework into their bilateral and regional arrangements for managing migration flows and protecting national security interests. Specific attention should be paid to detainees, smuggled migrants, victims of trafficking, children, women, asylum-seekers and other vulnerable groups. Policies designed for the readmission and reintegration of returnees should ensure that migrants seeking international protection are not forcibly returned without guaranteeing their rights to seek asylum</p>
<p>SR migrants (2008), A/HRC/7/12 (para.74)</p>	<p>States should devise plans for policymakers to explore the relationship between labour supply and demand and xenophobia at the institutional and community levels. Further consideration needs to be given to better integrating statistics into flexible, inclusive, and sustainable decision-making processes to govern admission, employment and residence status of migrants, as well as communication/education campaigns on the benefits of migration to the local and national economy</p>
<p>SR migrants (2003), A/58/275 (para.48)</p>	<p>The Special Rapporteur believes that the social and psychological impact of migration on migrants and their families should also be cushioned. To this end, both States of origin and States of destination should undertake efforts to ensure better communication and contacts between migrants and their families, including by facilitating visits</p>
<p>Special Rapporteur on the right to food (2018), A/73/164 (para.10(w))</p>	<p>Issue more non-restrictive residential and work permits to seasonal workers and condemn seasonal migration schemes that expel workers from countries after the season lapses</p>
<p>SR food (2008), A/HRC/7/5 (para.77(f))</p>	<p>States should strengthen international and national protection mechanisms for people forced to leave their homes and lands because of hunger or other severe violations of their right to food. They should elaborate a new international legal instrument that will provide protection for all people fleeing from hunger who are not currently protected under international human rights, humanitarian or refugee law. The Special Rapporteur suggests that the Human Rights Council mandate its new Advisory Committee to draw up a new norm of temporary non-refoulement of refugees from hunger</p>

<p>Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(h))</p>	<p>Ensure that visa regimes and other policies and practices do not undermine temporary international relocation initiatives for human rights defenders, and more fully operationalize policies that provide for humanitarian visas for human rights defenders at risk</p>
<p>Special Rapporteur on the rights to freedom of peaceful assembly and of association (2016), A/71/385 (para.98(v)(b))</p>	<p>Removing impediments to freedom of movement and access to justice (for example, provide temporary immigration status while rights violations are being investigated);</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2016), A/71/303 (para.69(b))</p>	<p>All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should: Identify measures to prevent exploitation of the labour of nationals and non-nationals fleeing conflict, including by establishing safe and legal channels of migration, respecting the principle of non-refoulement and ensuring that migrants have regular access to the labour market in the host country, in cooperation with United Nations agencies and programmes and international organizations;</p>
<p>SR trafficking (2010), A/65/288 (para.71)</p>	<p>States should recognize that creating opportunities for regular labour migration that respond realistically to the economic and societal demand for such migration rather than artificially restricting legal migration channels is the key to preventing trafficking in persons. Among other measures, States should actively seek to adopt bilateral and multilateral agreements providing for legal labour migration, particularly for low- and semi-skilled labour. This should be designed, implemented and monitored with the active participation of migrant workers themselves to ensure their effectiveness in promoting safe migration</p>
<p>Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2018), A/HRC/39/52 (para.82(s))</p>	<p>To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: Ensure that national migration policies are in compliance with international obligations to respect, protect and fulfil the human rights of all persons within the jurisdiction of a State, irrespective of the migration status of individuals. On that basis, adopt gender-responsive migration policies, programmes and services, and safe, orderly and regular migration pathways, including for women and girls, as a means of preventing domestic servitude and other types of contemporary forms of slavery. Women should actively participate in decision-making regarding their safety and protection;</p>
<p>Independent expert on human rights and international solidarity (2018), A/73/206 (para.50(d))</p>	<p>The expansion of existing regular migration pathways: States that have already created pathways for regular migration into their territories are strongly encouraged to enact laws and take other measures to ensure a significant expansion of the numbers of global migrants accommodated through such avenues</p>

Guidance from Treaty Bodies

5

Source	Guidance
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.52)</p>	<p>States parties should take appropriate measures to address the extreme vulnerability of undocumented migrant domestic workers, especially women and children. In particular, States parties should consider policies, including regularization programmes, to avoid or resolve situations in which migrant domestic workers are undocumented or are at risk of falling into irregular status (article 69)</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP/1/R (para.24)</p>	<p>State parties should repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel</p>
<p>CEDAW General recommendation No.26: on women domestic workers (2009), CEDAW/C/2009/WP/1/R (para.26)</p>	<p>States parties should repeal outright bans and discriminatory restrictions on women's immigration. They should ensure that their visa schemes do not indirectly discriminate against women by restricting permission to women migrant workers to be employed in certain job categories where men predominate, or by excluding certain female-dominated occupations from visa schemes. Further, they should lift bans that prohibit women migrant workers from getting married to nationals or permanent residents, becoming pregnant or securing independent housing (article 2 (f))...State parties should ensure that family reunification schemes for migrant workers are not directly or indirectly discriminatory on the basis of sex...when residency permits of women migrant workers are premised on the sponsorship of an employer or spouse, States parties should enact provisions relating to independent residency status. Regulations should be made to allow for the legal stay of a woman who flees her abusive employer or spouse or is fired for complaining about abuse (article 2 (f))</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.D.44)</p>	<p>Children's right to development, and their best interests, should be taken into consideration when States address, in general or individually, the situation of migrants residing irregularly, including through the implementation of regularization mechanisms as a means to promote integration and prevent exploitation and marginalization of migrant children and their families</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.1.29)</p>	<p>The Committees recommend that States provide avenues for status regularization for migrants in an irregular situation residing with their children, particularly when a child has been born or has lived in the country of destination for an extended period of time, or when return to the parent's country of origin would be against the child's best interests</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.1.31)</p>	<p>The Committees are also of the opinion that based on article 18 of the Convention on the Rights of the Child, a comprehensive approach to the child's right to a family environment in the context of migration should contemplate measures directed at enabling parents to fulfil their duties with regard to child development. Considering that irregular migration status of children and/or their parents may obstruct such goals, States should make available regular and non-discriminatory migration channels, as well as provide permanent and accessible mechanisms for children and their families to access long-term regular migration status or residency permits based on grounds such as family unity, labour relations, social integration and others</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.37)</p>	<p>Children that remain in their countries of origin may end up migrating irregularly and unsafely, seeking to be reunited with their parents and/or older siblings in destination countries. States should develop effective and accessible family reunification procedures that allow children to migrate in a regular manner, including children remaining in countries of origin who may migrate irregularly. States are encouraged to develop policies that enable migrants to regularly be accompanied by their families in order to avoid separation. Procedures should seek to facilitate family life and ensure that any restrictions are legitimate, necessary and proportionate. While this duty is primarily for receiving and transit countries, States of origin should also take measures to facilitate family reunification</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.b.83)</p>	<p>Whenever family reunification in the country of origin is not possible, irrespective of whether this is due to legal obstacles to return or whether the best-interests-based balancing test has decided against return, the obligations under article 9 and 10 of the Convention come into effect and should govern the host country's decisions on family reunification therein. In this context, States parties are particularly reminded 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" and "shall entail no adverse consequences for the applicants and for the members of their family" (art. 10 (1)). Countries of origin must respect "the right of the child and his or her parents to leave any country, including their own, and to enter their own country" (art. 10 (2))</p>

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

Guidance from Special Procedures

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

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

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

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

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

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

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

Guidance from Treaty Bodies

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

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

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

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

<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26 (b))</p>	<p>Legal protection for the rights of women migrant workers: States parties should ensure that constitutional and civil law and labour codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labour laws, including wage and hour regulations, health and safety codes and holiday and vacation leave regulations. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11)...States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e))</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.26 (c))</p>	<p>Access to remedies: States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated. Specific measures include, but are not limited to, the following (articles 2 (c), (f) and 3): (i) Promulgate and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, and put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse; (ii) Repeal or amend laws that prevent women migrant workers from using the courts and other systems of redress. These include laws on loss of work permit, which results in loss of earnings and possible deportation by immigration authorities when a worker files a complaint of exploitation or abuse and while pending investigation. States parties should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse; (iii) Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid; (iv) Provide temporary shelters for women migrant workers who wish to leave abusive employers, husbands or other relatives and provide facilities for safe accommodation during trial... States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available, including language and skills training programmes, emergency shelters, health-care services, police services, recreational programmes and programmes designed especially for isolated women migrant workers, such as domestic workers and others secluded in the home, in addition to victims of domestic violence. Victims of abuse must be provided with relevant emergency and social services, regardless of their immigration status (articles 3, 5 and 12)... States parties should repeal or amend laws and practices that prevent undocumented women migrant workers from using the courts and other systems of redress</p>
<p>CESCR General comment No.22: on the right to sexual and reproductive health (2016), E/C.12/GC/22 (para.II.9)</p>	<p>The right to sexual and reproductive health...requires States to ensure employment with maternity protection and paternal leave for workers, including workers in vulnerable situations, such as migrant workers...as well as protection from sexual harassment in the workplace and prohibition of discrimination</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.G.45)</p>	<p>The Committees remind States that migrant children above working age, irrespective of their status, should enjoy equal treatment to that of national children in respect of remuneration, other conditions of work and terms of employment</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.G.46)</p>	<p>States should take all appropriate legislative and administrative measures, including a gender dimension, to regulate and protect the employment of migrant children with respect to the minimum age of employment and hazardous work. Given the specific risk to which migrant children are exposed, States shall also ensure that, in both law and practice, all necessary measures, including the provision of appropriate penalties, be taken by the competent authority to guarantee the effective enforcement of the provisions of the Convention on the Rights of the Child and relevant international standards and that migrant children:</p> <ul style="list-style-type: none"> • Enjoy fair terms of employment as well as decent working conditions, in line with internationally accepted standards • Enjoy specific protective measures regulating the hours and conditions under which children can work • Are subject to periodic medical examinations attesting to their fitness for work • Have access to justice in case of violation of their rights by public or private actors, including by ensuring effective complaints mechanisms and a firewall between labour rights and immigration enforcement
<p>CESCR statement on duties of States towards refugees and migrants under the International Covenant on economic, social and cultural rights (2017), E/C.12/2017/1 (para.III.13)</p>	<p>In addition to laws and policies having to ensure that migrant workers enjoy treatment that is no less favourable than that of national workers in relation to remuneration and conditions of work, specific measures of protection may have to be adopted for the benefit of undocumented workers, to ensure that any abuse of their situation of vulnerability is effectively addressed and that they do not fear filing complaints with the competent authorities</p>
<p>CESCR General comment No.24: on State obligations under the International Covenant on economic, social and cultural rights in the context of business activities (2017), E/C.12/GC/24 (para IV.B.2.57)</p>	<p>[N]on-judicial remedies should also be available in transnational settings. Examples include access by victims located outside the State's territory to that State's human rights institutions or ombudspersons as well as to complaints mechanisms established under international organizations, such as national contact points</p>
<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.VII.35)</p>	<p>Recognize that, while States may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated</p>

Objective 7: Address and reduce vulnerabilities in migration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(a))	Ensure equal access for migrants and provide them with reliable legal information, competent and affordable legal representation, effective legal aid, and competent translation and interpretation services; waive legal fees for all migrants who cannot afford them; and protect migrants by regularizing their status, giving them special visas or taking other protective measures for victims of trafficking and forced labour;
SR migrants (2018), A/73/178/Rev.1 (para.75(b))	Ensure and facilitate equal and effective access for all migrants whose labour or human rights are violated to independent, competent, fair, effective and accountable judicial and quasi-judicial institutions;
SR migrants (2018), A/73/178/Rev.1 (para.76(b))	With regard to migrant boys and girls States should: Facilitate access to mechanisms for submitting formal complaints and reports that are adapted to the needs of boys and girls, in cases of violations of their rights;
SR migrants (2018), A/73/178/Rev.1 (para.76(d))	With regard to migrant boys and girls States should: Give due consideration to the views of boys and girls and safeguard their privacy and confidentiality when they participate in judicial proceedings, in order to prevent their victimization or revictimization;
SR migrants (2018), A/73/178/Rev.1 (para.76(e))	With regard to migrant boys and girls States should: Ensure that, as soon as possible, a legal representative is appointed for all children, free of charge, and a trained guardian is appointed for unaccompanied and separated children;
SR migrants (2018), A/73/178/Rev.1 (para.76(g))	With regard to migrant boys and girls States should: Train and educate judicial and administrative officials in the human rights and needs of boys and girls
SR migrants (2018), A/73/178/Rev.1 (para.77(b))	With regard to migrant women States should: Take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal proceedings;
SR migrants (2018), A/73/178/Rev.1 (para.77(c))	With regard to migrant women States should: Take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities;
SR migrants (2018), A/73/178/Rev.1 (para.77(d))	With regard to migrant women States should: Review and monitor all judicial procedures to ensure that they do not directly or indirectly discriminate against women and eliminate any discrimination against women in penalties;
SR migrants (2018), A/73/178/Rev.1 (para.77(e))	With regard to migrant women States should: Train and raise the awareness of justice system personnel regarding women's human rights and the principle of equality

<p>SR migrants (2018), A/HRC/38/41 (para.92(c))</p>	<p>Adopt and support strategies on migrants in vulnerable situations, including by creating mechanisms and allocating resources to ensure that the status of migrants in vulnerable situations can be determined individually, fairly and reliably while respecting the principle of non-refoulement;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(g))</p>	<p>Provide accessible complaint mechanisms for migrants, including those who have experienced sexual or gender-based violence, and also legal information and aid in a language that they understand to ensure their access to justice and remedies for human rights violations;</p>
<p>SR migrants (2015), A/HRC/29/36 (para.113)</p>	<p>Remove barriers to access to justice ensuring migrants can effectively — and not simply on paper — access legal remedy for violations of their rights. Facilitating access to justice, without fear of detection, detention or deportation, in order to help migrants fight for their rights, would go a long way towards, on the one hand, legitimizing new migration policies by showing that territorial sovereignty and human rights are not incompatible, and, on the other hand, changing mentalities regarding migration through fighting fantasies and stereotypes</p>
<p>SR migrants (2014), A/HRC/26/35 (para.93)</p>	<p>Extend labour protection in national law to domestic workers, including by formulating provisions related to minimum wages, payment for overtime, working hours, working conditions, days of rest, annual leave, freedom of association and social security protection, including with respect to maternity, pension rights and health insurance, as well as effective recourse and remedies. Ensure that migrant domestic workers have a written contract, in a language they can understand, stating their specific duties, working hours, remuneration, days of rest, and other conditions of work. Model contracts should be adopted for this purpose. Persons who abuse domestic workers should be prevented from hiring more domestic workers in the future. Labour inspections should be undertaken also in employers' households, and regular meetings should take place between domestic workers and a labour inspector outside the household, in order to combat abuse. Ensure that migrant domestic workers have access to complaint mechanisms and legal assistance</p>
<p>SR migrants (2014), A/HRC/26/35 (para.100)</p>	<p>Ensure that migrants, including those in an irregular situation, can access human rights institutions, courts and tribunals, without fear of being deported. Legal aid and interpreters should be provided as required. Courts should effectively apply the international human rights law and international labour law in providing appropriate redress. Migrants who have filed cases against abusive employers should be allowed to remain in the country, and be given necessary assistance to take part in the trial against their employer and obtain justice. They should be provided with temporary immigration status that allows them to live in dignity until the case is resolved, including shelter – not detention – and food when needed</p>
<p>SR migrants (2012), A/67/299 (para.93(d))</p>	<p>States should support civil society organizations that give a voice to such vulnerable populations, including migrants or potential migrants, with a view to ensuring their meaningful participation in all the deliberations regarding their future as citizens and/or migrants;</p>

<p>SR migrants (2010), A/65/222 (para.75)</p>	<p>States should consider that irregular migrants are generally in a very vulnerable condition and that irregularity is due to several factors (including restrictive migration policies, social exclusion and marginalization as well as demand for labour in countries of destination). States should accordingly: (a) Adopt integrated and protective approaches, instead of approaches that are punitive and based solely on security and border control concerns; (b) Design and implement programmes, plans and policies to address irregular migration in a comprehensive and holistic way, without resorting to its criminalization; (c) Take into account the root causes of migration and the importance of creating legal channels for migration in policymaking initiatives so that they can be comprehensive, human-centred and incorporate human rights; (d) Promote multi-pronged and multi-stakeholder initiatives, preferably including civil society and migrants themselves (such as research, advocacy strategies, policy discussions, etc.) in order to examine the context-specific and human rights-based options to address irregular migration</p>
<p>SR migrants (2010), A/65/222 (para.76)</p>	<p>Regularization policies, plans and programmes States are encouraged to adopt and promote regularization programmes, plans and policies as a crucial strategy for ensuring migrants’ rights, prevent human rights violations and abuses associated with irregular migration, address marginalization and facilitate the integration of migrants and their families in the communities of destination</p>
<p>SR migrants (2010), A/65/222 (para.77)</p>	<p>States are particularly encouraged to: (a) Develop public policies to regularize non-documented migrants (especially children and their families) through flexible, permanent and regular legal avenues and by extraordinary regularizations aimed at contributing to the social integration of the large number of irregular migrants living in host societies; (b) Consider regularization programmes as a key element of migration policies in order to ensure social integration and family reunification, limit migrant workers’ exploitation and abuse and incorporate workers from informal and underground economies into the labour force, with clear benefits for host countries, including increasing contributions to national tax and social security revenues; (c) Consider creating regularization options for persons who may not fall under the international refugee regime but who may need to have their human rights protected and consider granting legal residence to children and adolescent victims of abuse and exploitation as a durable solution, in line with the best interests of the child; (d) Ensure that regularization policies are sustainable and respectful of human rights norms, inter alia, by incorporating provisions to protect migrants from reprisals from their employers who might prefer that they remain in an irregular status</p>

<p>SR migrants (2010), A/65/222 (para.80)</p>	<p>The Special Rapporteur encourages the establishment and implementation of institutionalized services and programmes to provide comprehensive support and protection to persons arriving in mixed migratory flows, especially women, children and the elderly, including means to detect those who are in need of international protection. Protection services should include access to humanitarian assistance in the first instance, including adequate food and water, and access to health services, legal advice and effective asylum procedures. Longer term needs should include access to durable solutions in the case of persons in need of international protection and support for return to the community of origin for those people who are deemed able to return with no risk to their human rights</p>
<p>SR migrants (2009), A/HRC/11/7 (para.82)</p>	<p>All policies and programmes aimed at addressing the situation of children in the context of migration should have a human rights-based approach and be based on fundamental principles, such as the best interest of the child, non-discrimination and the right of the child to be heard in all decisions that concern him or her</p>
<p>SR migrants (2009), A/HRC/11/7 (para.86)</p>	<p>States should also consider the specific vulnerability of the migrant girl child and the gender impact of migration and human rights implications for girls and boys of any migration-related planned action, including legislation, policies and programmes, and address existing gaps in protection</p>
<p>SR migrants (2009), A/64/213 (para.96)</p>	<p>States should review their national and regional laws and policies to harmonize them with the international legal framework on the protection of the human rights of migrants, with particular attention to the protection of the rights of the child. Immigration laws and policies should include concrete regulations aimed at protecting the rights of the child in the context of migration and fulfilling their specific needs in migration-related circumstances</p>
<p>SR migrants (2009), A/HRC/11/7 (para.99)</p>	<p>The Special Rapporteur recommends that protection programmes include reproductive sexual health awareness and training to address psychological trauma</p>
<p>SR migrants (2009), A/HRC/11/7 (para.128)</p>	<p>The Special Rapporteur encourages inter-institutional coordination at the national level, including through specific mechanisms and with the participation of civil society, consular services, local governments and the private sector, for the development and implementation of multidisciplinary policies to ensure the protection of the rights of children in the context of migration</p>
<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.205)</p>	<p>The risk of discrimination on multiple grounds such as race, ethnicity, gender and class has increased with the feminization of migration. Governments should: Provide and ensure access to education and training, as well as to income-generating activities, for migrant women;</p>
<p>Special Rapporteur on violence against women (2000), E/CN.4/2000/68 (para.111)</p>	<p>Measures designed to limit women's legal entry into countries of destination should be carefully weighed against their disadvantages as they pertain to potential immigrants and women. In particular, measures that are designed to protect women by limiting their access to legal migration or increasing the requirements associated with such migration should be assessed in terms of the potential for discriminatory impact and the potential for increasing the likelihood that women consequently may be subjected to trafficking</p>

<p>Special Rapporteur on violence against women (1997), E/CN.4/1997/47 (para.170)</p>	<p>The immigration policy of receiving countries should be revised to prevent vulnerable women from being doubly marginalized. In addition, procedures should ensure that traffickers cannot act with impunity because of the immediate deportation of trafficked victims</p>
<p>Special Rapporteur on violence against women (1997), E/CN.4/1997/47 (para.178)</p>	<p>Receiving States should prosecute employers abusing women migrant workers. In addition, laws and regulations that place women migrant workers in vulnerable situations, such as through the confiscation of passports, should be repealed. In addition, receiving States, with the collaboration of non-governmental organizations, should ensure that shelters and counselling services are available for women migrant workers who are victims of violence. Immigration authorities should be more sensitive to the needs of migrant workers, bearing in mind that their immigration status often makes them vulnerable to abuse</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2017), A/72/164 (para.83(b)) Joint report with the Special Rapporteur on the sale and sexual exploitation of children</p>	<p>In terms of access to justice, prosecution and sanctions, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should: Ensure that legislation, policies, measures and practices guarantee child-sensitive due processes in all migration-related administrative and judicial proceedings affecting the rights of children or of their parents. All children, including those accompanied by parents or other legal guardians, must be treated as individual rights-holders, not criminals, their child-specific needs must be considered equally and individually and their views must be duly heard. They must have access to administrative and judicial remedies against decisions on their own situation or that of their parents that affect them in order to guarantee that all decisions are taken in their best interests. Children should be able to bring complaints beyond legal or court procedures at lower levels that should be easily accessible to them, such as those of child protection and youth institutions, schools or the ombudsperson, and they should be able to receive advice from professionals in a child-sensitive manner when their rights have been violated;</p>
<p>SR trafficking (2018), A/HRC/38/45 (para.71(c))</p>	<p>In relation to the protection of refugees, asylum seekers and migrants in vulnerable situations, including victims and potential victims of trafficking in persons, States should: Ensure that appropriate laws and procedures are in place to enable actors to protect and assist refugees and migrants, and review and suspend, amend or repeal any laws or other measures that have a negative or disproportionate impact on the human rights of refugees and migrants;</p>
<p>SR trafficking (2017) A/72/164 (para.81(e))</p>	<p>In terms of protection and assistance, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should: Create safe child-friendly spaces in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements that host children and offer them space for recreation, study and rest, separated from other facilities, and ensure that those areas are family- based and family-like, whenever possible;</p>

<p>SR trafficking (2013), A/HRC/23/48 (para.85(c))</p>	<p>Discouraging demand routinely requires measures to stop discrimination, notably discriminatory practices which contribute to the exploitation of persons. These include discrimination based on gender, ethnicity, national origin and other criteria, such as discrimination against migrant workers in employment practices. States should eliminate acts or practices of discrimination on such grounds and should amend laws and policies that institutionalize discrimination and thereby also shape demand, particularly ones concerned with employment or migration, just as they must challenge discriminatory social attitudes, practices and beliefs, which also shape demand;</p>
<p>SR trafficking (2007), A/HRC/4/23 (para.63(d))</p>	<p>States amend their immigration legislation so that victims of forced marriages are not dependent upon their spouses for legal immigration status but can obtain residence permits independently of their continued relation to their husbands. Governments should recognize forced marriage, especially in the context of trafficking in persons, as a condition giving rise to a claim of asylum based on gender-related violence and other forms of human rights violations, and ensure that the women and girls concerned are not deported;</p>
<p>SR trafficking (2007), A/HRC/4/23 (para.63(o))</p>	<p>States support public authorities and non-governmental and community-based organizations that already assist victims of domestic violence and sexual assault, including immigrant women and children, and establish more facilities to protect and assist victims of trafficking, including safe shelters that provide services such as security, housing, legal advice, employment, education, health care, childcare and relocation assistance for women and girls fleeing actual or threatened forced marriages. These shelters should, together with appropriate consular and other authorities, assist in the safe repatriation of those who have undergone forced marriages abroad, if desired;</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.102)</p>	<p>States should ensure that all refugees and migrants and their families have effective access to justice, whatever their migration status: all refugees and migrants and their families should be able, and should be encouraged, to report arbitrary killings and disappearances, file charges and access witness protection, if needed</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(m))</p>	<p>Prevent the detention and deportation of irregular migrant workers and instead regularize their stay on objective criteria, in order to protect them from exploitation and ensure their full enjoyment of the right to health;</p>
<p>Special Rapporteur on the independence of judges and lawyers (2013), A/HRC/23/43 (para.105)</p>	<p>Recognizing that the lack of public policies to eliminate obstacles to access to justice for all has a greater impact on groups in a vulnerable situation or living in extreme poverty, States should develop and implement appropriate policies to ensure meaningful access to legal aid for women, children and groups with special needs</p>

Guidance from Treaty Bodies

Source	Guidance
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.54)	States parties shall take appropriate measures to protect the unity of the families of migrant domestic workers in a regular situation (article 44, paragraph 1). In particular, migrant domestic workers should have reasonable opportunities for family contact and family-related mobility, including opportunities to communicate with family left behind, travel to participate in essential family matters such as funerals, and, especially in the case of long-term migrants, to visit spouses and children in other countries. States parties should ensure that children separated from one or both parents are allowed to maintain direct contact with both parents on a regular basis
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.55)	States parties should take appropriate measures with regard to migrant domestic workers in a regular situation to facilitate their reunification with their spouses and children (article 44, paragraph 2). In the event of the death of or divorce from a migrant worker with a regular status, States parties should favourably consider granting independent residence status to family members of that migrant worker (article 50)
CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.61)	States parties should also repeal discriminatory laws, regulations and practices related to HIV, including those which result in the loss of work visas based on HIV status, and ensure that medical testing of migrant domestic workers, including tests for pregnancy or HIV, is only done voluntarily and subject to informed consent
CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.2.71)	The Committee considers that in cases of extreme poverty and vulnerability, States parties should provide emergency social assistance to migrant workers in an irregular situation and members of their families, including emergency services for persons with disabilities, for as long as they might require it. It recalls that even if many migrant workers in an irregular situation do not participate in contributory schemes, they contribute to financing social protection schemes and programmes by paying indirect taxes
CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.II.18)	The Committees are of the opinion that, in order to fulfil the rights of all children in the context of international migration, the following elements should be part of the policies and practices to be developed and implemented: (a) comprehensive, inter-institutional policies between child protection and welfare authorities and other key bodies, including on social protection, health, education, justice, migration and gender, and between regional, national and local governments; (b) adequate resources, including budgetary, aimed at ensuring effective implementation of policies and programmes; and (c) continuous and periodic training of child protection, migration and related officials on the rights of children, migrants and refugees and on statelessness, including intersectional discrimination

<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.A.24)</p>	<p>States parties should conduct a robust gender analysis of the specific impacts of migration policies and programmes on children of all genders. States parties should review and amend any gender-discriminatory restrictions on migration in law or practice that limit opportunities for girls or that do not recognize their capacity and autonomy to make their own decisions</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.A.25)</p>	<p>The Committees recommend that the States parties put special emphasis on the policies and related regulations about the prevention of discriminatory practices towards migrant and refugee children with disabilities and the implementation of necessary policies and programmes for ensuring the full enjoyment of all human rights and fundamental freedoms of migrant and refugee children with disabilities on an equal basis with children who are nationals of the States, and taking into consideration the provisions enshrined in the Convention on the Rights of Persons with Disabilities</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.28)</p>	<p>Recognizing that the best interests of the child — once assessed and determined — might conflict with other interests or rights (e.g. of other children, the public and parents) and that potential conflicts have to be resolved on a case-by-case basis, carefully balancing the interests of all parties and finding a suitable compromise, the Committee stresses in paragraph 39 of its general comment No. 14 that the right of the child to have his or her best interests taken as a primary consideration means that the child's interests have high priority and are not just one of several considerations. Therefore, a larger weight must be attached to what serves the child best. It further states in paragraph 82 that the purpose of assessing and determining the best interests of the child is to ensure the full and effective enjoyment of the rights recognized in the Convention on the Rights of the Child, and the holistic development of the child</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.32)</p>	<p>Conduct a best-interests assessment on a case-by-case basis in order to decide, if needed, and in accordance with the Guidelines for the Alternative Care of Children, the type of accommodation that would be most appropriate for an unaccompanied or separated child, or children with parents. In that process, community-based care solutions should be prioritized. Any measure that constrains children's liberty in order to protect them, e.g. placement in secure accommodation, should be implemented within the child protection system with the same standards and safeguards; be strictly necessary, legitimate and proportionate to the aim of protecting the individual child from harming him or herself or others; be part of a holistic care plan; and be disconnected from migration-enforcement policies, practices and authorities</p>

<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.C.35)</p>	<p>The Committee on the Rights of the Child, in its general comment No. 12, underlines that adequate measures to guarantee the right to be heard should be implemented in the context of international migration, as children who come to a country could be in a particularly vulnerable and disadvantaged situation. For that reason, it is critical to implement fully their right to express their views on all aspects affecting their lives, including as an integral part of immigration and asylum proceedings, and for their views to be given due weight. Children may have their own migration projects and migration-driving factors, and policies and decisions cannot be effective or appropriate without their participation. The Committee also emphasizes that these children should be provided with all relevant information, inter alia, on their rights, the services available, means of communication, complaints mechanisms, the immigration and asylum processes and their outcomes. Information should be provided in the child’s own language in a timely manner, in a child-sensitive and age-appropriate manner, in order to make their voice heard and to be given due weight in the proceedings</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.C.37)</p>	<p>States parties should take all measures appropriate to fully promote and facilitate the participation of children, including providing them with the opportunity to be heard in any administrative or judicial proceeding related to their or their families’ cases, including any decision on care, shelter or migration status. Children should be heard independently of their parents, and their individual circumstances should be included in the consideration of the family’s cases. Specific best-interests assessments should be carried out in those procedures, and the child’s specific reasons for the migration should be taken into account. Regarding the significant relationship between the right to be heard and the best interests of the child, the Committee on the Rights of the Child has already stated that there can be no correct application of article 3 if the components of article 12 are not respected</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.C.39)</p>	<p>States parties should adopt measures directed at facilitating the participation of all children in the context of international migration in the design, implementation, monitoring and evaluation of policies that could directly or indirectly affect them, as individuals or a group, including in the fields of social policies and social services. Initiatives should be taken to prepare girls and transgender children to participate actively, effectively and equally with boys at all levels of social, economic, political and cultural leadership. In countries of origin, the participation of children is paramount in developing policies on and in processes aimed at addressing drivers of the migration of children and/or their parents and developing policies in that regard. In addition, States should adopt measures aimed at empowering children affected by international migration to participate on different levels, through consultations, collaborations and child-led initiatives, and at ensuring that civil society organizations, including children associations and child-led organizations, can participate effectively in policy dialogues and processes on children in the context of international migration, at the local, national, regional and international levels. Any limitations on children’s freedom of association, including through legally establishing associations, should be removed</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.A.3)</p>	<p>The Committees are concerned that children between 15 and 18 years tend to be provided much lower levels of protection, and are sometimes considered as adults or left with an ambiguous migration status until they reach 18 years of age. States are urged to ensure that equal standards of protection are provided to every child, including those above the age of 15 years and regardless of their migration status. In accordance with the Guidelines for Alternative Care of Children, States should provide adequate follow-up, support and transition measures for children as they approach 18 years of age, particularly those leaving a care context, including by ensuring access to long-term regular migration status and reasonable opportunities for completing education, access to decent jobs and integrating into the society they live in. The child should be adequately prepared for independent living during this transition period, and competent authorities shall ensure adequate follow-up of the individual situation. The Committees additionally encourage States to take protective and support measures beyond the age of 18 years</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.C.16)</p>	<p>Children should be able to bring complaints before courts, administrative tribunals or other bodies at lower levels that are easily accessible to them, e.g., in child protection and youth institutions, schools and national human rights institutions, and should be able to receive advice and representation in a child-friendly manner by professionals with specialized knowledge of children and migration issues when their rights have been violated. States should ensure standardized policies to guide authorities in offering free, quality legal advice and representation for migrant, asylum-seeking and refugee children, including equal access for unaccompanied and separated children in local authority care and undocumented children</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.1.30)</p>	<p>The Committees are concerned about cases where children are separated from parents and placed in alternative care by child protection systems when there are no concerns related to parental abuse and neglect. Financial and material poverty, or conditions directly and uniquely attributable to such poverty, should never be the sole justification for removing a child from parental care, for receiving a child into alternative care or for preventing a child's social reintegration. In this regard, States should provide appropriate assistance to parents and legal guardians in the performance of their childrearing responsibilities, including by providing social benefits and child allowances and other social support services regardless of the migration status of the parents or the child</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.32)</p>	<p>Under article 10 of the Convention on the Rights of the Child, States parties are to ensure that applications for family reunification are dealt with in a positive, humane and expeditious manner, including facilitating the reunification of children with their parents. When the child's relations with his or her parents and/or sibling(s) are interrupted by migration (in both the cases of the parents without the child, or of the child without his or her parents and/or sibling(s)), preservation of the family unit should be taken into account when assessing the best interests of the child in decisions on family reunification</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.34)</p>	<p>In the case of unaccompanied or separated children, including children separated from their parents due to the enforcement of immigration laws, such as the parents’ detention, efforts to find sustainable, rights-based solutions for them should be initiated and implemented without delay, including the possibility of family reunification. If the child has family in the country of destination, the country of origin or a third country, child protection and welfare authorities in countries of transit or destination should contact family members as soon as possible. The decision as to whether a child should be reunited with his or her family in the country of origin, transit and/or destination should be based on a robust assessment in which the child’s best interests are upheld as a primary consideration and family reunification is taken into consideration, and which includes a sustainable reintegration plan where the child is guaranteed to participate in the process</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.36)</p>	<p>When a country of destination refuses family reunification to the child and/or to his/her family, it should provide detailed information to the child, in a child-friendly and age-appropriate manner, on the reasons for the refusal and on the child’s right to appeal</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.38)</p>	<p>The Committees are aware that insufficient financial resources often hinder the exercise of the right to family reunification and that the lack of proof of adequate family income can constitute a barrier to reunion procedures. States are encouraged to provide adequate financial support and other social services to those children and their parent(s), siblings and, where applicable, other relatives</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.F.44)</p>	<p>States should take the following actions to ensure the full and effective protection of migrant children from all forms of violence and abuse: • Take effective measures to ensure that they are protected from any form of slavery and commercial sexual exploitation and from being used for illicit activities or from any work that would jeopardize their health, safety or morals, including by becoming party to relevant conventions of the International Labour Organization • Take effective measures to protect them from all forms of violence and abuse, regardless of their migration status • Recognize and address the gender-specific vulnerable situations of girls and boys and children with disabilities as potential victims of trafficking for sexual, labour and all other forms of exploitation • Ensure comprehensive protection, support services and access to effective redress mechanisms, including psychosocial assistance and information about those remedies, for migrant children and their families reporting cases of violence, abuse or exploitation to police or other relevant authorities, regardless of their migration status; children and parents must be able to safely report to police or other authorities as victims or witnesses without any risk of immigration enforcement as a result • Recognize the important role that can be played by community services and civil society organizations in regard to the protection of migrant children • Develop comprehensive policies aimed at addressing the root causes of all forms of violence, exploitation and abuse against migrant children, including adequate resources for their proper implementation</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.III.65)</p>	<p>Child protection/welfare agencies should have a key role in the development of any international, regional or bilateral agreements that affect the rights and treatment of children in the context of international migration</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.b.33)</p>	<p>States should appoint a guardian or adviser as soon as the unaccompanied or separated child is identified and maintain such guardianship arrangements until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the State, in compliance with the Convention and other international obligations. The guardian should be consulted and informed regarding all actions taken in relation to the child. The guardian should have the authority to be present in all planning and decision-making processes, including immigration and appeal hearings, care arrangements and all efforts to search for a durable solution. The guardian or adviser should have the necessary expertise in the field of childcare, so as to ensure that the interests of the child are safeguarded and that the child's legal, social, health, psychological, material and educational needs are appropriately covered by, inter alia, the guardian acting as a link between the child and existing specialist agencies/individuals who provide the continuum of care required by the child. Agencies or individuals whose interests could potentially be in conflict with those of the child's should not be eligible for guardianship. For example, non-related adults whose primary relationship to the child is that of an employer should be excluded from a guardianship role</p>

<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.b.34)</p>	<p>In the case of a separated child, guardianship should regularly be assigned to the accompanying adult family member or non-primary family caretaker unless there is an indication that it would not be in the best interests of the child to do so, for example, where the accompanying adult has abused the child. In cases where a child is accompanied by a non-family adult or caretaker, suitability for guardianship must be scrutinized more closely. If such a guardian is able and willing to provide day-to-day care, but unable to adequately represent the child’s best interests in all spheres and at all levels of the child’s life, supplementary measures (such as the appointment of an adviser or legal representative) must be secured</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.b.35)</p>	<p>Review mechanisms shall be introduced and implemented to monitor the quality of the exercise of guardianship in order to ensure the best interests of the child are being represented throughout the decision-making process and, in particular, to prevent abuse</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.b.40)</p>	<p>Due regard ought to be taken of the desirability of continuity in a child’s upbringing and to the ethnic, religious, cultural and linguistic background as assessed in the identification, registration and documentation process. Such care and accommodation arrangements should comply with the following parameters: – Children should not, as a general rule, be deprived of liberty; – In order to ensure continuity of care and considering the best interests of the child, changes in residence for unaccompanied and separated children should be limited to instances where such change is in the best interests of the child; – In accordance with the principle of family unity, siblings should be kept together; – A child who has adult relatives arriving with him or her or already living in the country of asylum should be allowed to stay with them unless such action would be contrary to the best interests of the child. Given the particular vulnerabilities of the child, regular assessments should be conducted by social welfare personnel; – Irrespective of the care arrangements made for unaccompanied or separated children, regular supervision and assessment ought to be maintained by qualified persons in order to ensure the child’s physical and psychosocial health, protection against domestic violence or exploitation, and access to educational and vocational skills and opportunities; – States and other organizations must take measures to ensure the effective protection of the rights of separated or unaccompanied children living in child-headed households; – In large-scale emergencies, interim care must be provided for the shortest time appropriate for unaccompanied children. This interim care provides for their security and physical and emotional care in a setting that encourages their general development; – Children must be kept informed of the care arrangements being made for them, and their opinions must be taken into consideration</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.h.55)</p>	<p>Care arrangements for unaccompanied and separated children shall be made in a manner which prevents their recruitment, re-recruitment or use by any party to a conflict. Guardianships should not be given to individuals or organizations who are directly or indirectly involved in a conflict</p>

CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.e.91)

States should, in particular, observe the following: – Adoption of unaccompanied or separated children should only be considered once it has been established that the child is in a position to be adopted. In practice, this means, inter alia, that efforts with regard to tracing and family reunification have failed, or that the parents have consented to the adoption. The consent of parents and the consent of other persons, institutions and authorities that are necessary for adoption must be free and informed. This supposes notably that such consent has not been induced by payment or compensation of any kind and has not been withdrawn; – Unaccompanied or separated children must not be adopted in haste at the height of an emergency; – Any adoption must be determined as being in the child's best interests and carried out in keeping with applicable national, international and customary law; – The views of the child, depending upon his/her age and degree of maturity, should be sought and taken into account in all adoption procedures. This requirement implies that he/she has been counselled and duly informed of the consequences of adoption and of his/her consent to adoption, where such consent is required. Such consent must have been given freely and not induced by payment or compensation of any kind; – Priority must be given to adoption by relatives in their country of residence. Where this is not an option, preference will be given to adoption within the community from which the child came or at least within his or her own culture; – Adoption should not be considered: – Where there is reasonable hope of successful tracing and family reunification is in the child's best interests; – If it is contrary to the expressed wishes of the child or the parents; – Unless a reasonable time has passed during which all feasible steps to trace the parents or other surviving family members has been carried out. This period of time may vary with circumstances, in particular, those relating to the ability to conduct proper tracing; however, the process of tracing must be completed within a reasonable period of time; – Adoption in a country of asylum should not be taken up when there is the possibility of voluntary repatriation under conditions of safety and dignity in the near future

Objective 8: Save lives and establish coordinated international efforts on missing migrants

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2015), A/HRC/29/36 (para.103)	Prepare for more arrivals by sea and commit to fully implementing obligations under international law to provide search and rescue services to migrants in distress at sea, with State provision being the cornerstone of search and rescue operations
SR migrants (2015), A/HRC/29/36 (para.104)	Carefully consider options for how incentives that negatively impact private vessels' willingness to assist migrants in distress can be removed, including the development of a means by which compensation is given for commercial losses
SR migrants (2010), A/65/222 (para.81)	The detention of children and adolescents through border control measures, such as interception at sea, should be addressed through a child protection approach. Similarly, migration authorities responsible for the mistreatment of children should be held fully accountable
SR migrants (2008), A/HRC/7/12 (para.69)	States should take all measures to inform officials involved in potential interdiction at sea operations of the rights and protections afforded to migrants in transit, including those that are irregular. The rescue of persons in distress at sea is not only an obligation under maritime law but also a humanitarian necessity, regardless of the legal status of those found or their reasons for travelling by sea. Trafficked persons and other vulnerable groups such as separated children and asylum-seekers should receive specific assistance, including necessary health care at reception
SR migrants (2008), A/HRC/7/12 (para.75)	States should take measures to review, compile and share information on irregular maritime migration. For bilateral and multilateral agreements to restrict irregular maritime migration States, relevant intergovernmental organizations and non-governmental actors should establish mass information campaigns to inform those in transit of the risks associated with such travel and improve communication among officials when migrants are intercepted at sea, including the risks associated with overland travel en route to the prospective embarkation point. Empirical data on the scale and scope of irregular maritime migration, interception, rescue at sea, disembarkation and treatment of persons who have disembarked should be harmonized and more systematically compiled by Governments and international agencies
Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.86)	(a) Gather, compile and systematize all the information in relation to all individuals who go missing in, or transiting through, their countries. This information should also be systematically shared with bordering countries as well as with relevant international and/or regional organizations; (b) Intensify cooperation—bilateral and multilateral—with other States in the areas of identification, search, data collection, prevention, investigation and prosecution
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.88(b))	Better monitor newly identified migratory routes — both by land and by sea — with a view to saving lives and upholding human rights in order to avoid as much as possible the disappearances of migrants during their journey;

WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(a))	Take all necessary measures to search for and locate disappeared migrants by using all means at their disposal, including forensic investigative resources, and incorporate ante-mortem information in a centralized database;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(b))	Investigate whether clandestine graves or other places where bodies may be concealed may exist in migratory transit areas and establish a register of found corpses, documenting the circumstances of the discovery;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.89(d))	Consider facilitating, including by the issuance of visas, the arrival of relatives of the disappeared implicated in the search for their loved ones
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.91(a))	Ensure a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of migrants whose whereabouts are unknown;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.91(b))	Ensure the right of migrants to have recourse — with their informed consent — to the protection and assistance of the consular or diplomatic authorities of their State of origin if their rights are violated, including the right of the families of disappeared migrants to be assisted in the search for their whereabouts;
WG enforced disappearances (2017), A/HRC/36/39/Add.2 (para.92)	Given the transnational nature of the enforced disappearance of migrants, States should carry out all investigative efforts, both for the search for the migrants and for the prosecution of those presumed responsible, duly cooperating with the authorities of all States involved as well as with relevant international organizations
Special Rapporteur on extrajudicial, summary or arbitrary executions (2018), A/73/314 (para.89(e))	Instruct armed forces and police that life-saving humanitarian services should never be denied and that individuals providing such care should not be arrested, harassed or intimidated;
Special Rapporteur on extra-judicial executions (2018), A/73/314 (para.89(g))	Establish adequate systems to monitor the number of “humanitarian” prosecutions and convictions, as well as their effects;
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.91)	States should ensure that migration governance measures respect, protect and fulfil the right to life of all refugees and migrants, and that, in particular, no policies or practices rely on the likelihood, risk or severity of the harm refugees and migrants may incur to deter entry
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.92)	[States] should abide at all times with the principle of non-refoulement, including on the high seas and at borders
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.98)	States should carry out all investigative efforts into the death or disappearance of refugees and migrants with the cooperation of all States involved, and prioritize investigations into “aggravated smuggling”
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.99)	They should take all appropriate action to bring to justice all persons presumed responsible for the death of refugees and migrants, including through cooperation with other States
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.101)	[States] should investigate policies that may have contributed to unlawful death, and any failure to take reasonable measures to prevent them

Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.103)	States should ensure that refugees and migrants and their families have access to effective remedies, adequate, effective and prompt reparation for harm suffered and access to relevant information concerning the unlawful death and location of the remains
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.104)	States should ensure that families are able to report that a relative is missing, using simple and accessible procedures, whose security and confidentiality they trust, both inside and outside their countries: States should support families in searching for their missing relatives and, at a minimum, support the efforts of civil societies in providing this service
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.106)	States should monitor and record, at borders, points of arrival or disembarkation, all allegations of suspicious death or disappearances for investigation and trend analysis
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.108)	States should ensure that vessels carry out robust search-and-rescue operations, including in international waters
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.109)	States should ensure that interception measures at sea do not, de facto, deny access to international protection or lead to anyone being returned, directly or indirectly, to territories where their life or freedom would be threatened
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.111)	States should cooperate with and facilitate the work of civil society organizations engaged in search and rescue operations
Special Rapporteur on extra-judicial executions (2017), A/72/335 (para.115)	States should implement, inter alia, the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and best practices regarding the treatment of the dead, such as those set out in the publication of the International Committee of the Red Cross, Management of Dead Bodies after Disasters: A Field Manual for First Responders, and the “Last Rights” project five-point action plan; and support and train local officials to implement these standards
Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(a))	Take all measures to protect the right to life, liberty and security of person of people on the move and those who defend their rights;
SR human rights defenders (2018), A/HRC/37/51 (para.66(e))	In relation to the rescue of persons at sea specifically, observe legal provisions as contained, inter alia, in the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, and the Convention on the Law of the Sea; ensure that people are not criminalized for rescuing people at sea, and that masters of vessels sailing under their flag observe rules regarding rescue at sea; and allow vessels in distress to seek haven in their waters, granting those on board at least temporary refuge;
Special Rapporteur on the rights to freedom of peaceful assembly and of association (2017), A/HRC/35/28 (para.91(m))	In the spirit of encouraging a more hopeful future, supported by a more vibrant civil society, the Special Rapporteur recommends that States: Recognize and facilitate civil society’s role in assisting those facing humanitarian crises, without abdicating the State’s responsibilities under international law, including those relating to migrants, refugees, conflict prevention and disaster mitigation

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 9: Strengthen the transnational response to smuggling of migrants

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(g))	Adopt effective measures to reduce crime and violence against migrants during their journeys and in destination countries, and ensure effective protection and assistance to victims of exploitation and abuse;
SR migrants (2010), A/65/222 (para.79)	States should ensure that their border control and anti-smuggling efforts are carried out in a manner that respects and protects human rights, does not interfere with search and rescue obligations, and does not block access to asylum procedures and the identification of trafficked victims
SR migrants (2008), A/HRC/7/12 (para.71)	States should take measures to further understand and inform border officials, detention centre officials, and police and military officers about the distinctions between smuggled migrants, victims of trafficking, and other irregular migrants who potentially fall into both categories. All efforts should be made to fully and without prejudice investigate cases on an individual basis, provide due process guarantees and consular assistance, and to provide assistance to irregular migrants in their safe return, where applicable
SR migrants (2003), E/CN.4/2003/85 (para.75(b))	Ensuring that the legislation prevents trafficked and smuggled persons from being prosecuted, detained or punished for illegal entry or residence in the country or for the activities they are involved in as a consequence of their situation as trafficked persons. In this respect, the Special Rapporteur invites States to consider ratifying the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime;
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2018), A/HRC/37/50 (para.65(i))	Duty to prevent, investigate and prosecute: States should take effective legislative, administrative, judicial or other measures to prevent any act of torture and ill-treatment in any territory under their jurisdiction, including in connection with migrant smuggling or trafficking, regardless of whether the perpetrators are State officials, or criminals, or both. To that effect, States should investigate, prosecute and punish any act of torture or ill-treatment, including attempts, complicity or other participation, and should cooperate to that effect with other States and with relevant international mechanisms and organizations
Special Rapporteur on extrajudicial, summary or arbitrary executions (2018), A/73/314 (para.89(c))	Adopt or revise national legislation on smuggling to explicitly exempt humanitarian action from its provisions, covering the facilitation of irregular entry, transit and residence, and ensure that no investigation is opened and no prosecution pursued against private individuals and organizations assisting migrants for humanitarian reasons;
Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.88(a))	Carefully consider, when designing them, the impact that migration regulations, policies and practices may have, and in particular assess the possible consequence of compelling migrants to resort to smuggling networks and thereby falling prey to trafficking networks, thus contributing to heightened risks of becoming victims of human rights violations, including enforced disappearances;

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/HRC/38/41 (para.93(d))	In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: Ensure that victims of trafficking are properly compensated for the harm suffered and are protected from re-trafficking;
SR migrants (2014), A/HRC/26/35 (para.89)	Undertake all the necessary measures to combat trafficking for labour exploitation and all forms of forced labour by migrants, and provide adequate support and assistance to the victims. Provide victims of trafficking with a residence permit that allows them to work and of a sufficient duration to allow them to rebuild their lives and consider their options
SR migrants (2012), A/HRC/20/24 (para.72(i))	Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for illegal entry or residence in the country or for the activities they are involved in as a consequence of their situation as trafficked persons. In this respect, the Special Rapporteur invites States that have not yet done so to consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
SR migrants (2010), A/65/222 (para.107(a))	Take all necessary steps to prevent multiple discrimination and re-victimization, ensuring that effective structures and mechanisms are put in place to assist victims to reintegrate into society, including by providing them with psychological, health and social assistance;
SR migrants (2010), A/65/222 (para.107(b))	Incorporate into national policies, plans and programmes, and effectively implement, the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1);
Special Rapporteur on trafficking in persons, especially women and children (2018), A/73/171 (para.73(c))	In relation to the prevention of trafficking in persons: Give due consideration to early warning signs, including indicators of vulnerabilities to trafficking, especially in refugee, internally displaced persons camps and host communities, and in the proximity of military barracks and peacekeeping forces;
SR trafficking (2018), A/73/171 (para.73(h))	In relation to the prevention of trafficking in persons: Organize regular training for relevant personnel to identify, document and denounce situations in which there are risks of trafficking within and outside refugee camps and in the proximity of military or peacekeeping bases;
SR trafficking (2017), A/HRC/35/37 (para.79)	Multi-stakeholder initiatives should provide specific training to auditors and assurance providers on trafficking in persons to improve their skills in risk detection and evaluation of risk indicators; the training should also cover how to interview workers and should raise awareness of worker vulnerabilities, including those related to gender or migration status

<p>SR trafficking (2016), A/71/303 (para.69(j))</p>	<p>All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should: Not detain, prosecute or punish victims of trafficking for violations of immigration laws or for unlawful activities they were involved in as a direct consequence of their situation as trafficked persons, including violations and offences linked with prostitution, petty crime and irregular entry/stay in the host country;</p>
<p>SR trafficking (2016), A/71/303 (para.71(e))</p>	<p>States hosting, among persons fleeing conflict, children who may have been or are at risk of being victims of trafficking in persons should: Ensure that trafficked children and any other trafficked persons are not detained, prosecuted or punished for violations of immigration laws or for unlawful activities they are involved in as a direct consequence of their situation as trafficked persons</p>
<p>SR trafficking (2015), A/70/260 (para.45)</p>	<p>Due diligence requires States to take a comprehensive, integrated and holistic approach to ensuring the human rights of trafficked persons and persons at risk of being trafficked. Meaningful and substantive human rights due diligence provides a necessary framework to ensure policy coherence between anti-trafficking policy and related policy areas such as immigration and labour market policies</p>
<p>SR trafficking (2015), A/70/260 (para.48)</p>	<p>Due diligence to prevent trafficking requires action to address the wider, more systemic processes or root causes that contribute to trafficking in persons, such as inequality, restrictive immigration policies, and unfair labour conditions, particularly for migrant workers. Due diligence requires that in developing, implementing and assessing prevention approaches, initiatives be based on accurate data and targeted to those most at risk of trafficking in persons</p>
<p>SR trafficking (2013), A/HRC/23/48 (para.85(c))</p>	<p>Discouraging demand routinely requires measures to stop discrimination, notably discriminatory practices which contribute to the exploitation of persons. These include discrimination based on gender, ethnicity, national origin and other criteria, such as discrimination against migrant workers in employment practices. States should eliminate acts or practices of discrimination on such grounds and should amend laws and policies that institutionalize discrimination and thereby also shape demand, particularly ones concerned with employment or migration, just as they must challenge discriminatory social attitudes, practices and beliefs, which also shape demand;</p>
<p>SR trafficking (2013), A/HRC/23/48 (para.85(g))</p>	<p>It is necessary to ensure that anti-trafficking measures do not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum seekers. States should actively monitor the impact and possible side effects of measures to discourage demand and take appropriate action to address any unintended side effects which restrict the exercise of human rights;</p>
<p>SR trafficking (2012), A/HRC/20/18 (para.89)</p>	<p>Laws and policies that do not contain adequate safeguards to prevent the prosecution of trafficking victims for status-related offences must be revised, in particular by taking steps to ensure that they are not prosecuted for offences related to their status as trafficked persons, including sex crimes, begging, working or immigration violations. In addition, it is important that States provide post-conviction remedies, such as the possibility to quash judgements for status-related offences</p>

<p>SR trafficking (2011), A/66/283 (para.33)</p>	<p>As a very first step in ensuring that trafficked persons have the opportunity to seek remedies as victims of human rights violations, States should ensure that relevant authorities and officials, such as police, border guards and immigration officials, are adequately trained in the identification of trafficked persons to allow rapid and accurate identification of trafficked persons</p>
<p>SR trafficking (2011), A/HRC/17/35 (para.64)</p>	<p>States should ensure that relevant authorities and officials, such as police, border guards, and immigration officials, are adequately trained in the identification of trafficked persons to allow rapid and accurate identification of trafficked persons. Proper identification of trafficked persons is the first step in ensuring that trafficked persons have the opportunity to seek remedies as victims of human rights violations</p>
<p>SR trafficking (2011), A/HRC/17/35 (para.76)</p>	<p>States should also provide trafficked persons with temporary or permanent residence permits on social and humanitarian grounds, where a safe return to the country of origin is not guaranteed or a return would not otherwise be in the best interests of the trafficked person for reasons related to his or her personal circumstances, such as the loss of citizenship or cultural and social identity in the country of origin. States should also independently consider trafficked persons' claims for asylum, giving due consideration to any risks of reprisals and retaliation by traffickers which could constitute persecution within the meaning of the 1951 Convention relating to the Status of Refugees</p>
<p>SR trafficking (2010), A/65/288 (para.67)</p>	<p>Demand for exploitative labour and services, particularly demand by employers and third parties involved in trafficking, should be addressed as a root cause of trafficking. To that end, States should develop or strengthen immigration policies informed by the evidence-based recognition of the demand for migrant labour, including low- and semi-skilled labour</p>
<p>SR trafficking (2010), A/65/288 (para.75)</p>	<p>States should recognize the limited effects of awareness-raising in preventing trafficking, and should combine awareness-raising activities with measures to address the root causes of trafficking and provide prospective migrants with alternatives</p>
<p>Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.88(c))</p>	<p>Take all possible measures to sanction criminal organizations which abuse or exploit migrants, notably trafficking networks, and adequately investigate any allegation of involvement, collusion or acquiescence of State authorities in these criminal acts, which may end in the disappearance of migrants;</p>
<p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2009), A/64/211 (para.53(n))</p>	<p>To guarantee the right to protection from all forms of exploitation, sale and trafficking of persons by separating counter-terrorism measures from anti-trafficking initiatives to ensure that trafficked persons are neither criminalized nor stigmatized, and their human rights are ensured;</p>

<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.206)</p>	<p>Design and implement policies and measures to criminalize trafficking, punish traffickers and empower trafficked persons to regain control over their lives, including through special protection measures for women who wish to escape from traffickers (such as sheltered housing and special residence permits) and social inclusion programmes providing access to training and employment opportunities; Design anti-trafficking campaigns in such a way as to avoid negative stereotyping of marginalized women and the dissemination of sexist/racist prejudice;...Encourage the business sector, in particular the tourist industry and Internet providers, to develop codes of conduct with a view to protecting trafficked persons, especially those in prostitution, against gender-based and racial discrimination, and to promoting their rights, dignity and security; States should encourage the establishment of independent civil society committees to monitor compliance with such codes of conduct; Involve civil society organizations in awareness-raising and in the monitoring, evaluation and implementation of governmental policies and programmes</p>
<p>SR violence against women (2000), E/CN.4/2000/68 (para.113)</p>	<p>Governmental measures and international efforts to address trafficking must focus on the human rights abuses and labour rights abuses of the women involved, rather than treating trafficking victims as criminals or as illegal migrants</p>
<p>SR violence against women (2000), E/CN.4/2000/68 (para.122(a))</p>	<p>In consultation with relevant non-governmental organizations, relevant government bodies must: Develop curricula and conduct training for relevant government authorities, including officials of immigration and consular affairs offices, customs services, border guard and migration services, and representatives of the Ministry of Foreign Affairs, regarding the prevalence and risks of being trafficked, and the rights of victims. The training of such officials must not result in the creation of “profiles” which prevent women from receiving visas to go abroad;</p>
<p>SR violence against women (1997), E/CN.4/1997/47 (para.175)</p>	<p>States should develop institutional mechanisms to combat complicity by police and immigration officers in the process of trafficking and forced prostitution of women</p>
<p>SR violence against women (1997), E/CN.4/1997/47 (para.170)</p>	<p>Procedures should ensure that traffickers cannot act with impunity because of the immediate deportation of trafficked victims</p>
<p>Special Rapporteur on the sale and sexual exploitation of children (1999), E/CN.4/1999/71 (para.152(v))</p>	<p>Governments must identify and remove corrupt public officials acting as accomplices of traffickers and traders, and resist the pressure to attempt to address trafficking simply by limiting migration, which exacerbates the problem, especially for children</p>
<p>SR sale of children (1996), A/51/456 (para.88(c))</p>	<p>Quick and accurate exchange of information between countries should be developed with respect to the law enforcement agencies and the judiciary in order to ensure the thorough investigation, prosecution and conviction of perpetrators and the protection of the child victims. The national police should likewise work closely with INTERPOL and immigration authorities to curb trafficking and related activities;</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.F.43)</p>	<p>For migrant children for whom there are indications of trafficking, sale or other forms of sexual exploitation or who may be at risk of such acts or of child marriage, States should adopt the following measures: • Establish early identification measures to detect victims of sale, trafficking and abuse, as well as referral mechanisms, and in this regard carry out mandatory training for social workers, border police, lawyers, medical professionals and all other staff who come into contact with children • Where different migration statuses are available, the most protective status (i.e., asylum or residence on humanitarian grounds) should be applied and granting such status should be determined on a case-by-case basis in accordance with the best interests of the child • Ensure that the granting of residence status or assistance to migrant child victims of sale, trafficking or other forms of sexual exploitation is not made conditional on the initiation of criminal proceedings or their cooperation with law enforcement authorities</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.d.24)</p>	<p>The Committee is of the view that practical measures should be taken at all levels to protect children from the risks [of trafficking]. Such measures could include: priority procedures for child victims of trafficking, the prompt appointment of guardians, the provision of information to children about the risks they may encounter, and establishment of measures to provide follow-up to children particularly at risk. These measures should be regularly evaluated to ensure their effectiveness</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.g.52)</p>	<p>In accordance with article 35 of the Convention, States parties should take appropriate measures to prevent such trafficking. Necessary measures include identifying unaccompanied and separated children; regularly inquiring as to their whereabouts; and conducting information campaigns that are age-appropriate, gender-sensitive and in a language and medium that is understandable to the child. Adequate legislation should also be passed and effective mechanisms of enforcement be established with respect to labour regulations and border crossing</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.g.53)</p>	<p>Children who are at risk of being re-trafficked should not be returned to their country of origin unless it is in their best interests and appropriate measures for their protection have been taken. States should consider complementary forms of protection for trafficked children when return is not in their best interests</p>

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Objective 11: Manage borders in an integrated, secure and coordinated manner

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2013), A/HRC/23/46 (para.82)	Further implement a human rights-based approach to migration and border management, ensuring that the rights of migrants, including irregular migrants, are always the first consideration
SR migrants (2013), A/HRC/23/46 (para.89)	Avoid criminalization of irregular migrants in language, policies and practice, and refrain from using incorrect terminology such as “illegal migrant”
SR migrants (2010), A/65/222 (para.75(a))	Adopt integrated and protective approaches, instead of approaches that are punitive and based solely on security and border control concerns;
SR migrants (2010), A/65/222 (para.79)	States should ensure that their border control and anti-smuggling efforts are carried out in a manner that respects and protects human rights, does not interfere with search and rescue obligations, and does not block access to asylum procedures and the identification of trafficked victims
SR migrants (2010), A/65/222 (para.85)	States that continue to punish irregular migration with imprisonment should revise and reform their immigration laws and decriminalize irregular migration. States should not deprive migrants of their right to liberty because of their migratory status
SR migrants (2009), A/HRC/11/7 (para.102)	The Special Rapporteur recommends that migration officials be trained, including on the rights of the child and cultural sensitivities. States should ensure that age-assessment processes comply with international standards and that the persons concerned are allowed access to effective remedies to challenge age-assessment decisions. States should also consider according the benefit of the doubt in age-determination procedures
SR migrants (2008), A/HRC/7/12 (para.66)	States should further develop and implement training and awareness-raising programmes for border authorities, officials at detention centres, police and military officers, and government officials on the human rights afforded to irregular migrants during all phases of the migration stage including, inter alia, interception and rescue at sea, detention and expulsion, and smuggling and trafficking, where applicable
SR migrants (2001), E/CN.4/2001/83 (para.116)	States are strongly urged to provide their border officials with training in the international human rights conventions which prohibit racism, xenophobia and discrimination. States must, in all circumstances, and in order to combat organized crime, refrain from claiming that all nationals of particular countries or regions have the same patterns of behaviour
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(h))	Establish individual screening and assessment procedures for people on the move, to identify survivors of sexual and gender-based violence and torture, people with intellectual, cognitive and psychosocial disabilities and other people on the move with mental health and well-being needs;

<p>Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2018), A/HRC/37/50 (para.65(a))</p>	<p>National laws, policies and practices: In order to protect migrants from exploitation and abuse at the hands of criminals, corrupt officials and private citizens, States should refrain from basing their migration laws, policies and practices, their public communication, and their agreements with other States or non-State actors, including corporate actors, on deterrence, criminalization and discrimination. Instead, States should focus on developing sustainable pathways for safe, orderly and regular migration based on protection, human rights and non-discrimination</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.10)</p>	<p>The irregular entry and stay in a country by migrants should not be treated as a criminal offence, and the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows. Migrants must not be qualified or treated as criminals, or viewed only from the perspective of national or public security and/or health</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.96)</p>	<p>[States] should adopt or amend legislation to ensure that irregular entry, the attempt to enter in an irregular manner or irregular stay is not considered a criminal offence, and ensure that administrative sanctions applied to irregular entry are proportionate and reasonable</p>
<p>SR extrajudicial executions (2017), A/72/335 (para.97)</p>	<p>[States] should ensure that the use of force and use and possession of firearms and other weapons by border authorities is strictly regulated, in accordance with international human rights law, and any misuse or excess thereof is appropriately sanctioned</p>
<p>SR extrajudicial executions (2017), A/72/335 (para.105)</p>	<p>States should monitor entry systems in place for their compliance with international human rights and refugee law, in collaboration with civil society</p>
<p>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2010), A/65/295 (para.99)</p>	<p>The Special Rapporteur also recommends that human rights training be provided to law enforcement officials, especially immigration officials and border police, so that they may act in conformity with international human rights law when dealing with migrants, refugees and asylum-seekers</p>
<p>SR racism (2005), A/60/283 (para.56)</p>	<p>The General Assembly is also invited to give particular attention to the discriminatory treatment of groups in waiting and holding areas at airports, ports and borders, and to recommend that Member States consider taking the necessary measures to prevent such areas from becoming so-called no rights zones. In this context, the Special Rapporteur: Recommends that training courses for border police include training on national and international standards relating to the prohibition of racial discrimination and xenophobia. Encourages Governments to refrain from adopting measures motivated by “security threats” which could result in discrimination, in particular discrimination based on race, colour, language, religion, nationality, or national or ethnic origin. Also encourages Governments to take urgent measures to ensure that any person who is in a waiting area and could be expelled is given basic guarantees. Such guarantees must include respect for fundamental human rights, including the right to obtain legal assistance. Reminds Governments of their obligation to ensure that no person is sent back to a country where they could be subject to fundamental human rights violations. Draws attention to the specific situation of minors in waiting areas. The Special Rapporteur considers that they must be given specific attention in order to remedy the problems that have been noted, whether they be the application of legal procedures, administrative practices or the poor functioning of procedures relating to caring for unaccompanied minors</p>



<p>Independent Expert on human rights and international solidarity (2018), A/73/206 (para.50(g))</p>	<p>End or modify efforts to externalize continental borders: efforts to externalize the borders of continental or regional arrangements to other continents and regions, through the adoption of international agreements of the sort that tend to undermine rather than bolster the human rights and dignity of migrants, should be strongly discouraged. Such agreements tend to lead to significant human rights violations, offend the spirit of human rights-based international solidarity and run contrary to the letter of the draft declaration on the right to international solidarity</p>
<p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2007), A/62/263 (para.80(a))</p>	<p>Analyse the impact of pre-entry immigration control measures on the institution of asylum and the protection of refugees and other persons seeking international protection;</p>
<p>SR counter terrorism (2007), A/62/263 (para.80(b))</p>	<p>Ensure that guidelines and practices in all military and border control operations involving interception or other pre-entry mechanisms are clear and fully respect the pertinent principles and obligations under international law, particularly refugee law and human rights law, towards persons seeking international protection;</p>
<p>Working Group of Experts on People of African Descent (2003), E/CN.4/2004/21 (para.111(3))</p>	<p>A review should be undertaken of training programmes for immigration officials with a view to identifying and avoiding discriminatory practices against people of African descent or other national or ethnic groups and determining whether legislation or bad practice is the source of any discrimination</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para III.C.2.24)</p>	<p>Criminalizing irregular entry into a country exceeds the legitimate interest of States parties to control and regulate irregular migration, and leads to unnecessary detention. While irregular entry and stay may constitute administrative offences, they are not crimes per se against persons, property or national security</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.a.96)</p>	<p>Such training [for officials working with separated and unaccompanied children and dealing with their cases] should be specifically tailored to the needs and rights of the groups concerned. Nevertheless, certain key elements should be included in all training programmes, including: – Principles and provisions of the Convention; – Knowledge of the country of origin of separated and unaccompanied children; – Appropriate interview techniques; – Child development and psychology; – Cultural sensitivity and intercultural communication</p>

<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.a.97)</p>	<p>Initial training programmes should also be followed up regularly, including through on-the-job learning and professional networks</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.II.12)</p>	<p>The obligations of States parties under the Conventions apply to each child within their jurisdictions, including the jurisdiction arising from a State exercising effective control outside its borders. Those obligations cannot be arbitrarily and unilaterally curtailed either by excluding zones or areas from the territory of a State or by defining particular zones or areas as not or only partly under the jurisdiction of the State, including in international waters or other transit zones where States put in place migration control mechanisms. The obligations apply within the borders of the State, including with respect to those children who come under its jurisdiction while attempting to enter its territory</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.32)</p>	<p>Ensure that children are identified promptly in border controls and other migration-control procedures within the State's jurisdiction, and that anyone claiming to be a child is treated as such, promptly referred to child protection authorities and other relevant services, and appointed a guardian, if unaccompanied or separated</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.E.46)</p>	<p>The Committees have already pointed out that States shall not reject a child at a border or return him or her to a country where there are substantial grounds for believing that he or she is at real risk of irreparable harm, such as, but by no means limited to, those contemplated under articles 6 (1) and 37 of the Convention on the Rights of the Child, either in the country to which removal is to be effected or in any country to which the child may subsequently be removed. Such nonrefoulement obligations apply irrespective of whether serious violations of those rights guaranteed under the Convention originate from non-State actors or whether such violations are directly intended or are the indirect consequence of States parties' action or inaction</p>

Objective 12: Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/HRC/38/41 (para.86)	All migrants are entitled to the protection of their human rights, without discrimination and regardless of their status. Migrants in irregular situations require individual screening and assessment procedures so that their specific situations of vulnerability are effectively identified and the legal protection frameworks that meet their needs, including under international human rights law, may be determined. Failure to provide such procedures constitutes a violation of due process guarantees and the international principles of non-refoulement and the best interests of the child, among others. The protection of the economic, social and cultural rights of migrants, such as access to an adequate standard of living, food, water, health and education, and their civil and political rights, such as access to justice, in countries of origin, transit and destination must be ensured
SR migrants (2010), A/65/222 (para.97)	The Special Rapporteur recommends the development of standardized procedures to ensure access to asylum procedures as well as an assessment of the situation in the country of origin or habitual residence of the rejected asylum-seekers before deciding on their repatriation. In this regard, States should follow the several country-specific guidelines issued by UNHCR in order to avoid returning rejected asylum-seekers whose appeals have been exhausted to countries where they may be at risk of human rights violations
SR migrants (2010), A/65/222 (para.98)	States should not consider asylum-seekers as irregular migrants and should follow the guidance provided by UNHCR not to detain asylum-seekers but to house them in open reception centres
SR migrants (2009), A/HRC/11/7 (para.102)	The Special Rapporteur recommends that migration officials be trained, including on the rights of the child and cultural sensitivities. States should ensure that age-assessment processes comply with international standards and that the persons concerned are allowed access to effective remedies to challenge age-assessment decisions. States should also consider according the benefit of the doubt in age-determination procedures
SR migrants (2008), A/HRC/7/12 (para.64)	All cases of persons involved in the interception of migrants at sea, whether irregular migrants or those involved in the rescue or transport of migrants found to be irregular, should be treated on an individual basis and granted the basic right to due process. Persons believed to be smuggled or trafficked should be brought before an independent judge without the involvement of the country of origin; States should renew their cooperation in protecting witnesses and victims who assist in identification and prosecution of smugglers and traffickers. Persons claiming international protection should be allowed to enter the national asylum procedure without delay

<p>Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2018), A/HRC/37/50 (para.65(g))</p>	<p>Training of officials: Officials or other persons tasked with the determination of refugee status and/or entitlement to subsidiary international protection should be appropriately trained in the conduct of the relevant assessments and the identification and documentation of signs of torture and ill-treatment, and should be aware that non-refoulement protection specifically against the risk of torture and ill-treatment is absolute and non-derogable and applies to all migrants regardless of their entitlement to refugee status, or of considerations of national or public security</p>
<p>SR torture (2018), A/HRC/37/50 (para.65(e))</p>	<p>Victims of torture: States should ensure that migrants having suffered torture or ill-treatment: (a) are identified as early as possible through adequate screening; (b) have access to an independent medical and psychological evaluation of allegations of past trauma in accordance with the Istanbul Protocol, (c) have access to adapted status determination proceedings taking into account their psychological trauma; (d) receive redress, including as full rehabilitation as possible; (e) are not deported to a State or territory where adequate rehabilitation services are not available or guaranteed. Rehabilitation may require the tracing of and reunification with family members, particularly for unaccompanied or separated children and other persons with specific vulnerabilities</p>
<p>SR torture (2016), A/HRC/31/57 (para.70(q))</p>	<p>With regard to women, girls, and lesbian, gay, bisexual and transgender persons in detention, the Special Rapporteur calls on all States to: Ensure that migrants, refugees and asylum seekers are individually assessed, including with respect to their need for protection, and that adequate screening and assessment procedures are in place to identify victims of torture and ill-treatment; provide opportunities for safe, voluntary and dignified disclosure of lesbian, gay, bisexual, transgender and intersex status; and ensure that measures taken by migration authorities do not retraumatize victims;</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(h))</p>	<p>Establish individual screening and assessment procedures for people on the move, to identify survivors of sexual and gender-based violence and torture, people with intellectual, cognitive and psychosocial disabilities and other people on the move with mental health and well-being needs;</p>
<p>SR health (2018), A/73/216 (para.83(i))</p>	<p>Ensure the sustainability and non-discrimination of mental health care and support interventions for all people, including people on the move, through effective referrals of people on the move to appropriate services and through the broad incorporation of their needs into existing mental health systems;</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2018), A/73/171 (para.74(b))</p>	<p>In relation to the protection of victims of trafficking: Establish and/or adapt national procedures for early identification, assistance and referral to protection services for victims and potential victims of trafficking, including gender- and child-sensitive measures, in conflict and post- conflict settings, as well as in the context of forced displacement and large migration flows, in line with the recommendations of the Special Rapporteur (A/HRC/38/45);</p>
<p>SR trafficking (2017), A/72/164 (para.80(c))</p>	<p>Enhance the capacity of all stakeholders, including border and law enforcement officials, front-line workers and volunteers, in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, and in areas of arrival of large influxes of people fleeing conflict and humanitarian crisis, to ensure the systematic registration of all, including children, and the identification of cases and risks of trafficking and exploitation of children</p>

SR trafficking (2017), A/72/164 (para.81(f))	In terms of protection and assistance, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should: Appoint trained and independent translators in areas and services that are or could potentially be in contact with vulnerable migrant and refugee children to facilitate effective communication and access to services;
SR trafficking (2016), A/HRC/32/41 (para.64(g))	All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should: Establish and/or adapt national procedures for assistance and protection services for victims and potential victims of trafficking in persons, including gender- and child-sensitive measures, to detect trafficking cases and indications of the risk of trafficking in all locations where there are large influxes of refugees and migrants, including hotspots, reception centres and administrative detention centres for migrants;
SR trafficking (2016), A/71/303 (para.69(g))	All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should: Establish and/or adapt national procedures for assistance and protection services for victims and potential victims of trafficking in persons, including gender- and child-sensitive measures, to detect trafficking cases and indications of the risk of trafficking in all locations where there are large influxes of refugees and migrants, including hotspots, reception centres and administrative detention centres for migrants;
Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.93)	[States] should implement individually based assessments at borders; under no circumstances engage in collective expulsion; and ensure that victims of trafficking, including women and girls, at risk of exploitation shall be entitled to specific protection and individualized assistance

Guidance from Treaty Bodies

Source	Guidance
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.31)</p>	<p>In order to implement the best interests principle in migration-related procedures or decisions that could affect children, the Committees stress the need to conduct systematically best-interests assessments and determination procedures as part of, or to inform, migration-related and other decisions that affect migrant children. As the Committee on the Rights of the Child explains in its general comment No.14, the child's best interests should be assessed and determined when a decision is to be made. A "best interests assessment" involves evaluating and balancing all the elements necessary to make a decision in the specific situation for a specific individual child or group of children. A "best-interests determination" is a formal process with strict procedural safeguards designed to determine the child's best interests on the basis of the best-interests assessment. In addition, assessing the child's best interests is a unique activity that should be undertaken in each individual case and in the light of the specific circumstances of each child or group of children, including age, sex, level of maturity, whether the child or children belong to a minority group and the social and cultural context in which the child or children find themselves</p>

<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.32)</p>	<p>The best-interests assessment should be carried out by actors independent of the migration authorities in a multidisciplinary way, including a meaningful participation of authorities responsible for child protection and welfare and other relevant actors, such as parents, guardians and legal representatives, as well as the child; Develop procedures and define criteria to provide guidance to all relevant persons involved with migration procedures on determining the best interests of the child and on giving them due weight as a primary consideration, including in entry, residence, resettlement and return procedures, and develop mechanisms aimed at monitoring its proper implementation in practice...Provide guidance to all relevant authorities on the operationalization of the principle of the best interests of the child for migrant children, including children in transit, and develop mechanisms aimed at monitoring its proper implementation in practice; Develop and put into practice, with regard to unaccompanied children and children with families, a best-interests determination procedure aimed at identifying and applying comprehensive, secure and sustainable solutions, including further integration and settlement in the country of current residence, repatriation to the country of origin or resettlement in a third country. Such solutions may include medium-term options and ensuring that there are possibilities for children and families to gain access to secure residence status in the best interests of the child. Best-interest determination procedures should be guided by child protection authorities within child protection systems. Possible solutions and plans should be discussed and developed together with the child, in a child friendly and sensitive manner, in accordance with Committee on the Rights of the Child general comment No. 12 (2009) on the right of the child to be heard</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.C.36)</p>	<p>States parties should appoint a qualified legal representative for all children, including those with parental care, and a trained guardian for unaccompanied and separated children, as soon as possible on arrival, free of charge. Accessible complaints mechanisms for children should be ensured. Throughout the process, children should be offered the possibility to be provided with a translator in order that they may express themselves fully in their native language and/or receive support from someone familiar with the child’s ethnic, religious and cultural background. These professionals should be trained on the specific needs of children in the context of international migration, including gender, cultural, religious and other intersecting aspects</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para III.C.38)</p>	<p>States parties should take all appropriate measures aimed at ensuring children’s right to be heard in the immigration procedures concerning their parents, in particular where the decision could affect the children’s rights, such as the right to not be separated from their parents, except when such separation is in their best interests (see art. 9 of the Convention on the Rights of the Child)</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.A.4)</p>	<p>To make an informed estimate of age, States should undertake a comprehensive assessment of the child's physical and psychological development, conducted by specialist paediatricians or other professionals who are skilled in combining different aspects of development. Such assessments should be carried out in a prompt, child-friendly, gender sensitive and culturally appropriate manner, including interviews of children and, as appropriate, accompanying adults, in a language the child understands. Documents that are available should be considered genuine unless there is proof to the contrary, and statements by children and their parents or relatives must be considered. The benefit of the doubt should be given to the individual being assessed. States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes. States should ensure that their determinations can be reviewed or appealed to a suitable independent body</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.B.13)</p>	<p>In the view of the Committees, child protection and welfare actors should take primary responsibility for children in the context of international migration. When a migrant child is first detected by immigration authorities, child protection or welfare officials should immediately be informed and be in charge of screening the child for protection, shelter and other needs. Unaccompanied and separated children should be placed in the national/local alternative care system, preferably in family-type care with their own family when available, or otherwise in community care when family is not available. These decisions have to be taken within a child-sensitive due process framework, including the child's rights to be heard, to have access to justice and to challenge before a judge any decision that could deprive him or her of liberty, and should take into account the vulnerabilities and needs of the child, including those based on their gender, disability, age, mental health, pregnancy or other conditions</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.C.17)</p>	<p>More specifically, and in particular in the context of best interest assessments and within best interest determination procedures, children should be guaranteed the right to: (a) Access to the territory, regardless of the documentation they have or lack, and to be referred to authorities in charge of evaluating their needs in terms of protection of their rights, ensuring their procedural safeguards; (b) Be notified of the existence of a proceeding and of the decision adopted in the context of the immigration and asylum proceedings, its implications and possibilities for appeal; (c) Have the immigration proceedings conducted by a specialized official or judge, and any interviews carried out in person by professionals trained in communicating with children; (d) Be heard and take part in all stages of the proceedings and be assisted without charge by a translator and/or interpreter; (e) Have effective access to communication with consular officials and consular assistance, and to receive child-sensitive rights-based consular protection; (f) Be assisted by an attorney trained and/or experienced in representing children at all stages of the proceedings and communicate freely with the representative, and have access to free legal aid; (g) Have the application and procedures involving children be treated as a priority, while ensuring ample time to prepare for proceedings and that all due process guarantees are preserved; (h) Appeal the decision to a higher court or independent authority, with suspensive effect; (i) For unaccompanied and separated children, have appointed a competent guardian, as expeditiously as possible, who serves as a key procedural safeguard to ensure respect for their best interests; (j) Be fully informed throughout the entire procedure, together with their guardian and legal adviser, including information on their rights and all relevant information that could affect them</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.50)</p>	<p>States parties should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families. States should take measures to ensure an adequate standard of living in temporary locations, such as reception facilities and formal and informal camps, ensuring that these are accessible to children and their parents, including persons with disabilities, pregnant women and breastfeeding mothers. States should ensure that residential facilities do not restrict children’s day-to-day movements unnecessarily, including de facto restriction of movement</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.a.80)</p>	<p>Tracing is an essential component of any search for a durable solution and should be prioritized except where the act of tracing, or the way in which tracing is conducted, would be contrary to the best interests of the child or jeopardize fundamental rights of those being traced. In any case, in conducting tracing activities, no reference should be made to the status of the child as an asylum-seeker or refugee. Subject to all of these conditions, such tracing efforts should also be continued during the asylum procedure. For all children who remain in the territory of the host State, whether on the basis of asylum, complementary forms of protection or due to other legal or factual obstacles to removal, a durable solution must be sought</p>
<p>CEDAW General recommendation No.32: on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women (2009), CEDAW/C/GC/32 (para.IV.C.34)</p>	<p>Gender sensitivity should be reflected in reception arrangements, taking into account the specific needs of victims of sexual abuse and exploitation, of trauma and torture or ill-treatment and of other particularly vulnerable groups of women and girls. Reception arrangements should also allow for the unity of the family as present within the territory, in particular in the context of reception centres</p>

Objective 13: Use immigration detention only as a measure of last resort and work towards alternatives

Guidance from Special Procedures

Source	Guidance
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.10)	The irregular entry and stay in a country by migrants should not be treated as a criminal offence, and the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows. Migrants must not be qualified or treated as criminals, or viewed only from the perspective of national or public security and/or health
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.14)	Detention in the course of migration proceedings must be justified as reasonable, necessary and proportionate in the light of the circumstances specific to the individual case. Such detention is permissible only for the shortest period of time, it must not be punitive in nature and must be periodically reviewed as it extends in time
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.17)	Alternatives to detention should be realistic and must not depend upon the ability of the individual to pay for these. Alternatives to detention may take various forms, including reporting at regular intervals to the authorities, community-based solutions, release on bail or other securities, or stay in open centres or at a designated place. The conditions in any such open centres and other facilities must be humane and respectful of the inherent dignity of all persons
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.18)	The application of measures alternative to detention must be reviewed by a judicial authority and alternatives to detention must not be considered as alternatives to release
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.19)	The need to detain should be assessed on an individual basis and not based on a formal assessment of the migrant's current migration status. The detention must comply with the principle of proportionality and as such, automatic and/or mandatory detention in the context of migration is arbitrary
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.22)	The element of reasonableness requires that the detention be imposed in pursuance of a legitimate aim in each individual case. This must be prescribed by legislation that clearly defines and exhaustively lists the reasons that are legitimate aims justifying detention. Such reasons that would legitimize the detention include the necessity of identification of the person in an irregular situation or risk of absconding when their presence is necessary for further proceedings
Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.23)	The element of necessity requires that the detention be absolutely indispensable for achieving the intended purpose and that no other measure less onerous exists in the individual circumstances of the person who is in an irregular migration situation

<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.24)</p>	<p>The element of proportionality requires that a balance be struck between the gravity of the measure taken, which is the deprivation of liberty of a person in an irregular situation, including the effect of the detention on the physical and mental health of the individual, and the situation concerned. To ensure that the principle of proportionality is satisfied, alternatives to detention must always be considered</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.25)</p>	<p>A maximum detention period in the course of migration proceedings must be set by legislation, and such detention shall be permissible only for the shortest period of time. Excessive detention in the course of migration proceedings is arbitrary. Upon the expiry of the detention period set by law, the detained person must automatically be released</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.26)</p>	<p>Indefinite detention of individuals in the course of migration proceedings cannot be justified and is arbitrary</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.27)</p>	<p>There may be instances when the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them — including non-cooperation of the consular representation of the country of origin, the principle of non-refoulement or the unavailability of means of transportation — thus rendering expulsion impossible. In such cases, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.29)</p>	<p>The right of anyone deprived of his or her liberty to bring proceedings before a court in order that it may decide without delay on the lawfulness of his or her detention and obtain appropriate remedies upon a successful challenge, is a self-standing human right, the absence of which constitutes a human rights violation. This right applies to everyone, including immigrants regardless of their migration status, refugees and asylum seekers and stateless persons</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.30)</p>	<p>Any detention in the course of migration proceedings that makes it impossible to mount an effective challenge to the continued detention is arbitrary</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.33)</p>	<p>Those detained in the course of migration proceedings have the right to be informed, in writing and in a language which they understand, of the nature of and grounds for the decision to detain, the duration of detention, as well as of the possibility to challenge the legality and arbitrariness of such decision</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.40)</p>	<p>Detaining children because of their parents' migration status will always violate the principle of the best interests of the child and constitutes a violation of the rights of the child. Children must not be separated from their parents and/or legal guardians. The detention of children whose parents are detained should not be justified on the basis of maintaining the family unit, and alternatives to detention must be applied to the entire family instead</p>

<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.41)</p>	<p>Detention of migrants in other situations of vulnerability or at risk, such as pregnant women, breastfeeding mothers, elderly persons, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, or survivors of trafficking, torture and/or other serious violent crimes, must not take place</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.45)</p>	<p>Whether a place where those held in the course of migration proceedings is a place of detention depends on whether the individuals held there are free to leave it at will or not. If not, irrespective of whether the facilities are labelled “shelters”, “guest houses”, “transit centres” “migrant stations” or anything else, these constitute places of deprivation of liberty and all the safeguards applicable to those held in detention must be fully respected</p>
<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.48)</p>	<p>The standards restated in the present deliberation apply to all States in all situations, and factors such as the influx of large numbers of immigrants regardless of their status, asylum seekers, refugees and stateless persons cannot be used to justify the departure from these standards. The standards in the present deliberation also apply to migration detention facilities maintained by a State in the territory of another State, with both States jointly responsible for the detention</p>
<p>Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(c))</p>	<p>Ensure access for all migrants in detention, regardless of their status and circumstances, to competent lawyers, interpreters and translators, legal aid and judicial assistance programmes, NGOs, consular authorities and asylum procedures, and independent external monitoring of all migrant detention facilities;</p>
<p>SR migrants (2015), A/HRC/29/36 (para.111)</p>	<p>Develop coordinated efforts to move away from the detention of all migrants, investing in alternatives that avoid punishing those arriving irregularly. Look towards a model that quickly responds to and capitalizes on the strong desire of the vast majority of migrants to work and contribute to society</p>
<p>SR migrants (2014), A/HRC/26/35 (para.100)</p>	<p>Ensure that migrants, including those in an irregular situation, can access human rights institutions, courts and tribunals, without fear of being deported. Legal aid and interpreters should be provided as required. Courts should effectively apply the international human rights law and international labour law in providing appropriate redress. Migrants who have filed cases against abusive employers should be allowed to remain in the country, and be given necessary assistance to take part in the trial against their employer and obtain justice. They should be provided with temporary immigration status that allows them to live in dignity until the case is resolved, including shelter – not detention – and food when needed</p>
<p>SR migrants (2014), A/HRC/26/35 (para.104)</p>	<p>Train judges, lawyers, law enforcement and immigration enforcement officers and ensure their sensitivity to the human rights of migrants, whatever their status, and the dignity owed to them</p>
<p>SR migrants (2012), A/HRC/20/24 (para.68)</p>	<p>Governments have an obligation to establish a presumption in favour of liberty in national law, first consider alternative non-custodial measures, proceed to an individual assessment and choose the least intrusive or restrictive measure</p>

<p>SR migrants (2012), A/HRC/20/24 (para.70)</p>	<p>Administrative detention should not be applied as a punitive measure for violations of immigration laws and regulations, as those violations should not be considered criminal offences</p>
<p>SR migrants (2012), A/HRC/20/24 (para.72(a))</p>	<p>Ensuring that procedural safeguards and guarantees established by international human rights law and national law are applied to any form of detention. In particular, grounds for detention of migrants must be established by law. A decision to detain should only be taken under clear legal authority, and all migrants deprived of their liberty should be informed in a language they understand, if possible in writing, of the reasons for the detention and be entitled to bring proceedings before a court, so that the court can decide on the lawfulness of the detention. Migrants in detention shall be assisted, free of charge, by legal counsel and by an interpreter during administrative proceedings;</p>
<p>SR migrants (2012), A/HRC/20/24 (para.72(c))</p>	<p>Ensuring that the law sets a limit on the maximum length of detention pending deportation and that under no circumstance is detention indefinite. There should be automatic, regular and judicial review of detention in each individual case. Administrative detention should end when a deportation order cannot be executed;</p>
<p>SR migrants (2012), A/HRC/20/24 (para.72(d))</p>	<p>Ensuring that migrants under administrative detention are placed in a public establishment specifically intended for that purpose or, when this is not possible, in premises other than those intended for persons imprisoned under criminal law. The use of privately run detention centres should be avoided. Representatives of, inter alia, national human rights institutions, OHCHR, UNHCR, ICRC and NGOs should be allowed access to all places of detention. All migrant detention facilities – whatever their form – should be subject to a common set of standards, policies and practices and should be monitored by an independent central authority that is dedicated to ensuring compliance with the common set of standards, policies and practices;</p>
<p>SR migrants (2012), A/HRC/20/24 (para.72(g))</p>	<p>Giving particular attention to the situation of women in detention, ensuring that they are separated from men, and attended and supervised only by women officers, in order to protect them against sexual violence, and avoid the detention of pregnant women and breastfeeding mothers;</p>
<p>SR migrants (2012), A/HRC/20/24 (para.72(j))</p>	<p>Taking into due consideration the particular vulnerabilities of specific groups of migrants including victims of torture, unaccompanied older migrants, migrants with a mental or physical disability and migrants living with HIV/AIDS. Detention of migrants belonging to vulnerable categories and in need of special assistance should be only allowed as a measure of last resort, and they should be provided with adequate medical and psychological assistance;</p>

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<p>SR migrants (2012), A/HRC/20/24 (para.73)</p>	<p>The Special Rapporteur would like to remind Governments that alternatives to detention should not become alternatives to unconditional release, whenever such release is a possibility. Governments should put in place safeguards to ensure that those eligible for release without conditions are not diverted into alternative measures. Alternatives to detention should have a human rights-based approach, be established by law, be non-discriminatory and be subject to judicial review and independent monitoring and evaluation. In designing alternatives to detention, Governments should pay attention to the specific situation of particular groups of migrants, such as children, pregnant women and persons with disabilities, and use the least intrusive measure possible</p>
<p>SR migrants (2012), A/HRC/20/24 (para.74)</p>	<p>The Special Rapporteur encourages States to collect disaggregated data on the number of migrants in administrative detention, the number of migrants who are subject to different types of non-custodial measures and the compliance rate with these measures, in order to evaluate their effectiveness</p>
<p>SR migrants (2012), A/HRC/20/24 (para.78)</p>	<p>The Special Rapporteur would like to encourage civil society organizations to continue their efforts to document and study the violations and abuses that migrants suffer in the context of detention, continue monitoring good practices of alternatives to detention, develop and continue assistance programmes to migrants deprived of their liberty, including legal aid, translation services and social and psychological assistance and visit regularly migrant holding centres and penitentiaries where irregular migrants are held</p>
<p>SR migrants (2010), A/65/222 (para.73)</p>	<p>States should remove laws, policies, plans and programmes aimed at criminalizing irregular migration and should not consider breaches of immigration law a crime or punish such breaches with detention</p>
<p>SR migrants (2010), A/65/222 (para.87)</p>	<p>In cases where, exceptionally, detention of migrants is justified, this should not be made in facilities for criminals. Migration-related detention centres should not bear similarities to prison-like conditions. In connection with immigration detention facilities, States should bear in mind that: (a) Authorities in charge of these facilities should not be security forces; (b) States should hold private security firms that are hired to police immigration detention facilities accountable for upholding the rule of law and compliance with human rights; (c) Officials working in immigration detention facilities should be trained in human rights, cultural sensitivities, age and gender considerations and the particular needs of vulnerable populations; (d) Disciplinary rules should be markedly different from those in place in prison facilities; (e) Social protection (including access to education, health care, recreation and legal assistance), as well as contact with family in both countries of destination and origin, should be guaranteed: contact should also be facilitated with immigrant communities in destination countries and civil society institutions</p>
<p>SR migrants (2010), A/65/222 (para.93)</p>	<p>States should provide alternatives to detention for family groups when parents are detained on the sole basis of migratory status, keeping in mind the necessary balance between the need to protect family unity and the best interests of the child. In all decisions concerning children, the best interests of the child should be the primary consideration</p>

<p>SR migrants (2010), A/65/222 (para.94)</p>	<p>States should enact and use a broad range of alternative measures. In developing such measures, States should draw on some of the existing practical alternatives already applied in some States. Alternative measures may include registration requirements; reporting or monitoring conditions; the deposit of a financial guarantee; or an obligation to stay at a designated address, an open centre or other special accommodation. Reporting requirements, where used, should not be unduly onerous, invasive or difficult to comply with. Bail, bond and surety should be made available to irregular migrants under conditions that are reasonable and realistic. The use of open centres, directed residence or special accommodation should be developed, with open centres preferred over more restrictive alternatives</p>
<p>SR migrants (2010), A/65/222 (para.95)</p>	<p>Non-custodial measures, such as reporting requirements, should always be explicitly considered before resorting to detention, with the least restrictive measures considered first. The application of alternative measures must itself be governed by international human rights standards, including the basic principles of legality, necessity and proportionality, as well as non-discrimination. Alternative measures must take into account the particular situation of irregular migrants and asylum-seekers, including their frequently unstable financial or housing situation. If any measure is applied unnecessarily or disproportionately, in a discriminatory manner or without due regard to individual factors such as the particular vulnerability of an individual, it could amount to a restriction inconsistent with international human rights standards. Safeguards surrounding alternatives to detention should be as rigorous as those applied to situations of detention, including ensuring that the alternative measure is established in law, is non-discriminatory in purpose and effect and is subject to judicial review, and that the migrant has access to legal counsel. States should always use the least restrictive means necessary as alternatives to detention</p>
<p>SR migrants (2010), A/65/222 (para.87(e))</p>	<p>Social protection (including access to education, health care, recreation and legal assistance), as well as contact with family in both countries of destination and origin, should be guaranteed: contact should also be facilitated with immigrant communities in destination countries and civil society institutions</p>
<p>SR migrants (2010), A/65/222 (para.96)</p>	<p>States should endeavour to develop these alternatives in consultation with local non-governmental organizations with expertise in meeting the needs of migrants. This could be done, for example, through joint initiatives between Government authorities and non-governmental organizations for release and supervision of irregular migrants</p>
<p>SR migrants (2009), A/HRC/11/7 (para.117)</p>	<p>State authorities should ensure that private companies in charge of managing detention facilities act in conformity with international human rights standards</p>

<p>SR migrants (2003), E/CN.4/2003/85 (para.75(d))</p>	<p>Ensuring that migrants deprived of their liberty are informed in a language they understand, if possible in writing, of the reasons for the deprivation of liberty, of the available appeal mechanisms and of the regulations of the facility. Detained migrants shall also be accurately informed of the status of their case and of their right to contact a consular or embassy representative and members of their families. A briefing on the facility and information on the immigration law should also be provided. Migrants and their lawyers should have full and complete access to the migrants' files;</p>
<p>SR migrants (2003), E/CN.4/2003/85 (para.75(e))</p>	<p>Facilitating migrants' exercise of their rights, including by providing them with lists of lawyers offering pro bono services, telephone numbers of all consulates and organizations providing assistance to detainees and by creating mechanisms, such as toll-free numbers, to inform them of the status of their case. Efforts should be made to conclude agreements with NGOs, universities, volunteers, national human rights institution and humanitarian and other organizations to provide basic services, such as translation and legal assistance, when they cannot otherwise be guaranteed;</p>
<p>SR migrants (2003), E/CN.4/2003/85 (para.75(k))</p>	<p>Ensuring that the Body of Principles for the Protection of All Persons under any Form of Detention and Imprisonment are applied to all migrants under administrative detention. The Principles include the provision of a proper medical examination as promptly as possible and of medical treatment and care whenever necessary and free of charge; the right to obtain, within the limits of available public resources, educational, cultural and informational material; the provision for regular visits of places of detention by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment, in order to supervise the strict observance of relevant laws and regulations;</p>
<p>SR migrants (2003), E/CN.4/2003/85 (para.75(m))</p>	<p>Ensuring the presence in holding centres of a doctor with appropriate training in psychological treatments. Migrants should have the possibility of being assisted by interpreters in their contacts with doctors or when requesting medical attention. Detention of migrants with psychological problems, as well as those belonging to vulnerable categories and in need of special assistance, should be only allowed as a measure of last resort, and they should be provided with adequate medical and psychological assistance;</p>
<p>Special Rapporteur on torture and other cruel, inhuman or degrading treat- ment or punishment (2018), A/73/207 (para.77(d))</p>	<p>Preventive safeguards: States should ensure that preventive safeguards against torture and ill-treatment are put into place throughout all institutions, mechanisms and procedures. In particular, persons deprived of their liberty should be given the opportunity to inform their relatives, to contact a lawyer and to see a physician immediately after arrest and to access independent complaints mechanisms at any time. Inmates, particularly those experiencing specific vulnerabilities, should be protected at all times against violence and abuse by staff and other inmates. Incommunicado detention should be prohibited and criminalized under national law. Open-ended administrative detention without regular independent review should be abolished, as should detention or forced institutionalization based exclusively on a person's disability, legal capacity, migration status or similarly appropriate criteria;</p>

<p>SR torture (2018), A/HRC/37/50 (para.65(c))</p>	<p>Migration-related detention: States should refrain from policies of mandatory, prolonged or indefinite detention of migrants. Any migration-related detention should remain an exceptional measure and should be physically separated from detention related to the criminal justice system. Migrants, especially children, should never be detained solely because of their irregular migration status or the impossibility of their expulsion. The detention of migrants should never be used as a means of deterrence, intimidation, coercion or discrimination but, within the margins set by human rights law, should be subject to the same criteria as are applicable to nationals, including the requirements of legality, necessity, proportionality and, in the exceptional cases warranting administrative or preventative detention, periodic review. Furthermore, detention conditions and treatment must always align with international standards, most notably the "Nelson Mandela Rules", duly taking into account any personal vulnerability due to factors such as migration status, age, gender, disability, medical condition, previous trauma, or membership in a minority group. Independent national, international and non-governmental monitoring mechanisms, including civil society, National Preventive Mechanisms, the SPT, the Special Rapporteur and, in armed conflict, the ICRC, should be given full access to all places where migrants may be detained or accommodated, including extraterritorial vessels, off-shore facilities, and transit zones</p>
<p>SR torture (2011), A/66/268 (para.89)</p>	<p>The Special Rapporteur reiterates that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible. He emphasizes that when solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed. These safeguards reduce the chances that the use of solitary confinement will be arbitrary or excessive, as in the case of prolonged or indefinite confinement. They are all the more important in circumstances of detention where due process protections are often limited, as in administrative immigration detention. Minimum procedural safeguards should be interpreted in a manner that provides the greatest possible protection of the rights of detained individuals. In this context, the Special Rapporteur urges States to apply the following guiding principles and procedural safeguards</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(c))</p>	<p>Prohibit immediately the immigration detention of migrants with psychosocial, cognitive or intellectual disabilities and ensure that decisions relating to the entry, stay, naturalization and expulsion of people on the move cannot be made solely on the basis of health status, including mental health status;</p>
<p>SR health (2018), A/73/216 (para.83(d))</p>	<p>Work progressively to end all forms of immigration detention and, in the exceptional circumstances where this is used, ensure that procedural safeguards are implemented fully and that immigration detention is monitored by independent mechanisms to prevent torture, ill-treatment and violence and to prevent related interferences with the realization of the right to physical and mental health;</p>
<p>SR health (2018), A/73/216 (para.83(e))</p>	<p>Ensure that detained migrants are held in conditions that satisfy health standards and have access to essential health-care services, including mental health care and support services;</p>

<p>SR health (2018), A/73/216 (para.83(o))</p>	<p>Introduce appropriate accountability mechanisms, including the monitoring of mental health care and support services and detention settings, to ensure that people on the move have access to redress where necessary</p>
<p>Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.88(d))</p>	<p>Strive to end immigration detention and never detain migrant children based on their status or that of their parents. If detention of adult migrants is absolutely necessary as a measure of last resort, proportionate and justified in law, States should hold migrants deprived of liberty in an officially recognized place of detention and make sure that their detention is formally registered, including with accurate information on their detention and place or places of detention, and independently monitored;</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/HRC/35/23 (para.106)</p>	<p>States should ensure access to effective legal representation for incarcerated women, particularly women belonging to disadvantaged minority groups and migrant or refugee women</p>
<p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2016), A/71/384 (para.55(e))</p>	<p>The detention of migrants, refugees and asylum-seekers should always be a last resort: detention must always comply with the principle of legality, and the grounds for detention must be exhaustively listed; minimum conditions of humane and dignified detention must always be respected; detention must never become arbitrary and must always be necessary, reasonable and proportionate; and since the detention of children can never be in their best interest, alternatives to detention must always be provided to unaccompanied migrant children and families with children;</p>
<p>SR counter terrorism (2008), A/63/223 (para.45(a))</p>	<p>Those held in detention, including in immigration detention facilities, must have access to a judicial hearing as to the legality of their detention within no longer than 48 hours of being detained. In the case of any period of extended detention occurring outside the context of actual criminal proceedings (such as investigative or preventive detention) the need for continued detention of the person must be regularly reviewed by a judicial authority, which should occur at least every seven days;</p>
<p>SR counter terrorism (2007), A/62/263 (para.81(b))</p>	<p>(b) Not to depart from the right to judicial review of the lawfulness of any form of detention which, according to the Human Rights Committee, is not subject to derogation even at times of a public emergency and, given the vulnerable situation of detained immigrants, to ensure that judicial review of any form of immigration detention is made automatic (mandatory) within a reasonable time, such as hours;</p>
<p>Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of people to self-determination (2017), A/72/286 (para.74)</p>	<p>States should terminate the practice of outsourcing the overall operation of prisons, jails, immigration detention facilities and other places of deprivation of liberty to for-profit private security companies</p>

<p>Working Group on the use of mercenaries (2017), A/72/286 (para.82)</p>	<p>States should establish external monitoring and inspection mechanisms and not rely solely on inspections conducted by the governmental agency contracting with a particular private security company. A body fully independent of the contracting agency should carry out regular inspections. Reports of the inspections should be made public</p>
<p>Working Group on the use of mercenaries (2017), A/72/286 (para.88)</p>	<p>Contracts for private security companies operating in places of deprivation of liberty should adhere to international human rights standards, particularly the United Nations Standard Minimum Rules for the Treatment of Prisoners. These include rules regarding the treatment of detainees and prisoners, the recruitment of trained and skilled personnel, and inspections and contact with the outside world</p>

Guidance from Treaty Bodies

Source	Guidance
<p>HRC General comment no.35: Liberty and security of person (2014), CCPR/C/GC/35 (para.I.9)</p>	<p>Decisions regarding the detention of migrants must take into account the effect of the detention on their physical or mental health</p>
<p>HRC General comment no.35: Liberty and security of person (2014), CCPR/C/GC/35 (para.II.18)</p>	<p>Any necessary detention should take place in appropriate, sanitary, non-punitive facilities and should not take place in prisons</p>
<p>HRC General comment no.35: Liberty and security of person (2014), CCPR/C/GC/35 (para.VII.58)</p>	<p>Detainees should only be held in facilities officially acknowledged as places of detention. A centralized official register should be kept of the names and places of detention, and times of arrival and departure, as well as of the names of persons responsible for their detention, and made readily available and accessible to those concerned, including relatives. Prompt and regular access should be given to independent medical personnel and lawyers and, under appropriate supervision when the legitimate purpose of the detention so requires, to family members. Detainees should be promptly informed of their rights, in a language they understand; providing information leaflets in the appropriate language, including in Braille, may often assist the detainee in retaining the information...Independent and impartial mechanisms should be established for visiting and inspecting all places of detention</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.27)</p>	<p>Administrative detention of migrants that is initially lawful and non-arbitrary may become arbitrary if it continues beyond the period for which a State party can provide proper justification. To prevent such a situation from occurring, a maximum period of administrative detention shall be established by law, upon expiry of which a detainee must be automatically released in the absence of such justification. Administrative detention must never be unlimited or of excessive length. The justification for keeping a migrant worker detained shall be reviewed periodically to prevent prolonged and unjustified detention, which would be considered arbitrary. Preventive detention of migrant workers often leads to prolonged detention based on vague criteria. Therefore, such detention should be imposed only following an individual assessment in each case and for the shortest time possible, in compliance with all procedural safeguards provided for in article 16 of the Convention. In cases where an expulsion order cannot be executed for reasons beyond the detained migrant worker's control, he or she shall be released in order to avoid potentially indefinite detention</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.28)</p>	<p>States parties should consider preparing standard notification forms, containing, inter alia, information on available remedies, in the languages that are most frequently used or understood by migrant workers in an irregular situation in the State party concerned. Such standard notification forms, however, should be complementary to the issuance of a detention order containing factual information and the legal grounds pertaining to the arrest</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.30)</p>	<p>Article 16, paragraph 7, provides for the right of migrant workers who are deprived of their liberty to communicate with the consular or diplomatic authorities of their State of origin or those of a State representing the interests thereof. It also requires State parties to: (a) Inform the said authorities without delay of the arrest or detention of the migrant worker concerned, if he or she so requests; (b) Facilitate any communication between the person concerned and the said authorities; (c) Inform the person concerned without delay of this right as well as of rights under other applicable treaties; and (d) Correspond and meet with representatives of the said authorities and make arrangements with them for his or her legal representation</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.31)</p>	<p>The Committee emphasizes that the detaining State shall only contact the said authorities if this is explicitly requested by the detained migrant worker. In particular, migrant workers with potential protection needs shall not be brought to the attention of the said authorities without their knowledge and consent</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.33)</p>	<p>Further reviews of the continued necessity and lawfulness of the detention should be carried out at regular intervals by a judge or other officer authorized by law to exercise judicial power. The burden of proof must rest on the detaining authorities to demonstrate that the presumption in favour of liberty should be displaced</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.2.34)</p>	<p>In the Committee’s view, States parties should take effective measures to ensure that all migrant workers held in migration detention centres, including those who opt for voluntary repatriation, are properly informed of their rights in a language they understand, especially with regard to their rights to consular assistance, to challenge the lawfulness of their detention and/or to release, to request asylum and to receive information about protection measures available to victims or witnesses of trafficking in persons</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.36)</p>	<p>In order to respect the inherent dignity of migrant workers and members of their families who are deprived of their liberty, States parties are obliged to ensure adequate conditions in line with applicable international standards, including the provision of adequate sanitary, bathing and shower facilities; adequate food (including appropriate food for those observing religious dietary laws) and drinking water; the right to communicate with relatives and friends; access to qualified medical personnel, and adequate opportunities to practise their faith, for example. It also requires States parties to ensure that they are not subjected to any form of inhumane treatment, including sexual violence and abuse, by guards or other detainees or inmates. States parties must therefore: (a) Train supervisory and other staff; (b) Enable regular and independent monitoring of places where migrant workers are or may be deprived of their liberty; (c) Ensure that they have access to effective and independent complaint mechanisms, including access to legal counsel and interpreters; (d) Investigate complaints of torture and other forms of ill-treatment in places where migrant workers or members of their families are deprived of their liberty; and (e) Bring those responsible to justice</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.39)</p>	<p>The Committee considers that administrative detention of migrant workers should, as a rule, take place in public establishments. Privately run migrant detention centres pose particular difficulties in terms of monitoring. States parties cannot absolve themselves of their human rights obligations by contracting out the detention of persons to private commercial enterprises. If States parties delegate such functions to private companies, they must ensure respect for the rights of detained migrant workers, as provided for under article 17 of the Convention. States parties must ensure that detention centre personnel are trained in human rights, cultural sensitivity, and age and gender considerations</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.41)</p>	<p>States parties shall eliminate de facto discrimination against detained migrant workers by removing practical barriers to their equal enjoyment of visitation rights, such as detention in a remote location, making access difficult for family members</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.45)</p>	<p>States parties must also take into consideration the special situation of women migrant workers in detention. States parties must ensure separate facilities for men and women, ensure the provision of gender-specific health care services, and also provide for the specific needs of pregnant women, breastfeeding mothers and mothers with young children. States should avoid detaining women migrant workers in the final months of pregnancy or if they are nursing. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) provide useful guidelines for States in these situations</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.46)</p>	<p>Moreover, migrant workers with disabilities and members of their families with disabilities should be provided with “reasonable accommodation” [in detention] to ensure their right to enjoy their human rights and fundamental freedoms on an equal basis with others</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.47)</p>	<p>With regard to article 17, paragraph 8, the Committee considers that detention “for the purpose of verifying any infraction of provisions related to migration” covers the entire duration of administrative detention, and that, consequently, migrant workers and members of their families subjected to administrative detention shall not bear any costs arising therefrom</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.3.48)</p>	<p>Considering that migrant workers deprived of their liberty are in a particularly vulnerable situation due to their predicament and the uncertainty of the circumstances, the Committee is convinced of the importance of independent monitoring in preventing torture and other forms of ill-treatment and abuse. National human rights institutions, relevant civil society actors, the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross and the Office of the High Commissioner for Human Rights should have broad access to all places of detention where migrants are or may be detained</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.B.12)</p>	<p>Resources dedicated to detention should be diverted to non-custodial solutions carried out by competent child protection actors engaging with the child and, where applicable, his or her family. The measures offered to the child and the family should not imply any kind of child or family deprivation of liberty and should be based on an ethic of care and protection, not enforcement. They should focus on case resolution in the best interests of the child and provide all the material, social and emotional conditions necessary to ensure the comprehensive protection of the rights of the child, allowing for children’s holistic development. Independent public bodies, as well as civil society organizations, should be able to regularly monitor these facilities or measures. Children and families should have access to effective remedies in case any kind of immigration detention is enforced</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding human rights of children in the context of international migration (2017), CMC/C/GC/3-CRC/C/GC/22 (para.III.B.32)</p>	<p>Any measure that constrains children’s liberty in order to protect them, e.g. placement in secure accommodation, should be implemented within the child protection system with the same standards and safeguards; be strictly necessary, legitimate and proportionate to the aim of protecting the individual child from harming him or herself or others; be part of a holistic care plan; and be disconnected from migration-enforcement policies, practices and authorities</p>

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

Guidance from Special Procedures

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

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

Guidance from Treaty Bodies

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

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

Objective 15: Provide access to basic services for migrants

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(h))	Establish firewalls between immigration enforcement and public services to allow access to justice for all migrants without fear of being reported, detained and deported;
SR migrants (2018), A/HRC/38/41 (para.86)	The protection of the economic, social and cultural rights of migrants, such as access to an adequate standard of living, food, water, health and education, and their civil and political rights, such as access to justice, in countries of origin, transit and destination must be ensured
SR migrants (2015), A/70/310 (Section A (p.23))	Create firewalls between government services, such as courts, labour inspectors or health-care services, and immigration enforcement, in order to empower migrants to access basic services without fear of deportation
SR migrants (2014), A/HRC/26/35 (para.86)	Guarantee that all migrant workers have an adequate standard of living, including adequate food, water, clothing and housing
SR migrants (2010), A/HRC/14/30 (para.71)	As a matter of fundamental principle, States should fulfil the “minimum core obligation” to ensure the satisfaction of minimum essential levels of primary health care as well as basic shelter and housing for all individuals within their jurisdiction, regardless of their citizenship, nationality or immigration status, including migrants, migrants in irregular situations, migrant children and women. In times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes
SR migrants (2010), A/HRC/14/30 (para.72)	States should expressly recognize in laws the rights to health and adequate housing for all individuals, regardless of their nationality or immigration status. Particular attention should be paid to removing laws which have a disproportionately negative impact on the enjoyment of these rights, such as the criminalization of irregular migration and the “obligation to denounce”. States should also strengthen legal frameworks to guarantee access to justice regardless of immigration status
SR migrants (2010), A/HRC/14/30 (para.73)	States should collect disaggregated data and develop indicators on access to the rights to health and adequate housing by all individuals, paying particular attention to vulnerable groups such as migrants in irregular situations, migrant children and women. The indicators should form the basis of rights-based interventions designed to promote access to the rights to health and adequate housing by all
SR migrants (2010), A/HRC/14/30 (para.75)	States should also consider and develop policies on the regularization and integration of migrants in irregular situations in order to reflect their contributions to the host societies and to provide better protection of their rights, including those to health and adequate housing

<p>SR migrants (2010), A/HRC/14/30 (para.77)</p>	<p>States should work to reduce obstacles to health care for migrants by ensuring that access to health services is not conditioned upon one's immigration status. Access to health services for migrants should also be ensured while in detention. In this regard, States should work to remove legal and other impediments such as the "obligation to denounce" or similar provisions in their national laws which impede the enjoyment of access to health by migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.78)</p>	<p>States should also provide adequate information through campaigns and outreach, commit sufficient funds and promote implementation measures relevant to migrants' health issues. These policies should also (a) include the promotion of health services that are culturally and gender sensitive and conducive to reducing linguistic, communication and cultural barriers, and (b) be aimed at facilitating increased confidence and awareness of health services among migrant communities</p>
<p>SR migrants (2010), A/HRC/14/30 (para.79)</p>	<p>States should provide appropriate training to civil servants working in the area of migration and health and sensitize them on the issues of discrimination against migrants, particularly with respect to migrant women and girls and children. States must ensure that migrants are not denied access to health care due to uncertainty among public service providers, such as nurses and doctors, about what the law allows them to do for migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.80)</p>	<p>In view of the fact that migratory processes and living conditions of migrants in host States may have negative effects on their mental health, States should ensure that migrants' access to health care includes mental health care. In this regard, States should pay particular attention to improving the mental well-being of migrants by creating services that are integrated and appropriate to their needs. Further studies into the mental health needs of migrants, which recognize the crucial interrelationship between social circumstances and mental health and help provide an insight into relevant mental health care and assistance, in particular to migrant women, migrant children and migrants in detention, are required</p>
<p>SR migrants (2010), A/HRC/14/30 (para.81)</p>	<p>Sending, transit and receiving countries should have inclusive health access programmes to address the health requirements of migrants in a continuum. Such interventions must move beyond emergency care, and address physical, mental and social well-being, including reproductive health and infectious diseases, while providing adequate health education and information for migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.82)</p>	<p>In view of the specific health risks to which migrant women and girls are exposed, the gender dimension often involved in migration and the structural power relationships which frequently govern women's access to health care, States should provide adequate, appropriate and specialized medical assistance to migrant women and girls</p>

<p>SR migrants (2010), A/HRC/14/30 (para.84)</p>	<p>The best interest of the child requires that States take specific measures to ensure that all migrant children are able to enjoy the right to health, including continued access to health, as well as the rights related to health, such as the right to obtain a birth certificate. The right to health for unaccompanied children must be ensured immediately upon arrival, regardless of their immigration status. Furthermore, any decision to repatriate children to countries of origin should take into account the access to the right to health in those countries in the determination of what is in the child's best interest</p>
<p>SR migrants (2010), A/HRC/14/30 (para.85)</p>	<p>States should develop a comprehensive national housing strategy taking into account the needs and circumstances of migrants, who are often vulnerable to homelessness. Through the housing strategy States should seek to address underlying factors which dictate people's access to housing, such as low socio-economic status, gender, age and ethnicity. The strategy should also encompass a regular monitoring system for housing situations of migrants, both in public and private sectors, to identify and address any discriminatory practices</p>
<p>SR migrants (2010), A/HRC/14/30 (para.88)</p>	<p>States should, at a minimum, provide migrants in irregular situations at risk of homelessness with a level of housing which ensures their dignity and allocate resources to shelters which provide assistance to migrants in irregular situations. In this regard, cooperation and partnerships with non-governmental organizations, welfare organizations and community-based organizations at the grass-roots level are strongly encouraged. In the long term, regularization of migrants in irregular situations should be considered, so as to better protect their right to adequate housing</p>
<p>SR migrants (2010), A/HRC/14/30 (para.86)</p>	<p>States should formulate comprehensive criteria which provide clear and practical guidance to housing providers on what constitutes discrimination on the basis of citizenship, nationality or immigration status and their responsibilities to ensure equal access to housing by all, including migrants</p>
<p>SR migrants (2010), A/HRC/14/30 (para.88)</p>	<p>States should, at a minimum, provide migrants in irregular situations at risk of homelessness with a level of housing which ensures their dignity and allocate resources to shelters which provide assistance to migrants in irregular situations. In this regard, cooperation and partnerships with non-governmental organizations, welfare organizations and community-based organizations at the grass-roots level are strongly encouraged. In the long term, regularization of migrants in irregular situations should be considered, so as to better protect their right to adequate housing</p>
<p>SR migrants (2010), A/HRC/14/30 (para.89)</p>	<p>States should ensure that evictions are carried out only in exceptional circumstances and in accordance with international human rights law. Affected individuals should be fully consulted and informed in advance of any planned evictions in languages they understand, and should be provided with alternative accommodation and compensation, and due process rights. In this regard, the Special Rapporteur encourages States to refer to the Basic Principles and Guidelines on Development-Based Evictions and Displacement formulated by the Special Rapporteur on adequate housing (A/HRC/4/18, annex)</p>

<p>SR migrants (2010), A/HRC/14/30 (para.90)</p>	<p>States should fully take into account factors which affect access to housing by migrant women and girls. In particular, States should develop mechanisms to monitor workplace conditions of migrant women, especially where they are required to reside with their employers. States should ensure that migrant women workers have equal protection of the law and should provide accommodation for those who wish to leave abusive employers in the meantime</p>
<p>SR migrants (2010), A/HRC/14/30 (para.91)</p>	<p>States should provide parents and others responsible for the child with material assistance and support programmes, particularly with regard to housing. Irregular migrant families and their children should be provided with a minimum level of housing which ensures their basic needs. Throughout the process, the best interest of the child should be the paramount concern and the guiding principle</p>
<p>SR migrants (2010), A/HRC/14/30 (para.92)</p>	<p>States should rapidly identify unaccompanied migrant children without access to adequate housing and provide them with accommodation suitable to their needs and circumstances. States should also appoint guardians in order to prevent the social exclusion of these children and ensure that they have adequate access to basic services</p>
<p>SR migrants (2009), A/HRC/11/7 (para.118)</p>	<p>States should protect and respect the human rights of migrant children, irrespective of their migration status, including the rights to basic social services for all children, in particular the rights to food, health, education and an adequate standard of living, as well as access to justice. Dialogue and cooperation between Governments of States of origin and those of destination is highly encouraged, to ensure the fulfilment of these rights</p>
<p>Special Rapporteur on the right to food (2018), A/73/164 (para.101)</p>	<p>Provide safe channels for undocumented migrant workers so that they can anonymously report violations without fear of retribution, respecting the principle of non-refoulement and ensuring that migrants have access to the regular labour market in the host country, in cooperation with United Nations agencies and programmes and international organizations</p>
<p>SR food (2017), A/72/188 (para.96(e))</p>	<p>Prioritize the availability, accessibility and adequacy of food for the most vulnerable populations, including internally displaced persons and refugees;</p>
<p>Special Rapporteur on con- temporary forms of slavery, including its causes and consequences (2018), A/HRC/39/52 (para.82(g))</p>	<p>To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: Guarantee equal access for migrant women to services such as health care, including sexual and reproductive health care, and social protection. Also ensure that they have access to information materials in relevant languages;</p>
<p>SR slavery (2018), A/HRC/39/52 (para.82(v))</p>	<p>To effectively prevent and combat domestic servitude, to ensure the protection of migrant women and their access to decent work, the Special Rapporteur recommends that States: In destination countries, clearly separate labour inspection, immigration management and law enforcement. Ensure that the labour inspectorate is proactive, adequately resourced and entitled to conduct inspections of private households;</p>

<p>Working Group on Arbitrary Detention (2018), A/HRC/39/45 Annex (para.39)</p>	<p>All detained migrants must have free access to appropriate medical care, including mental health care</p>
<p>Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(i))</p>	<p>Ensure that people on the move and those who defend their rights have access to justice and to effective remedies through national courts, tribunals and dispute-settlement mechanisms, regardless of their immigration status; ensure that they are not threatened with or subject to arrest, detention or deportation when reporting crimes, labour rights violations, and other forms of human rights violations; and ensure they have the necessary support for pursuing remedies through effective access to justice in national courts, tribunals and dispute-settlement mechanisms, with the support of unions (where applicable), interpreters and legal assistance;</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(f))</p>	<p>Establish binding and effective firewalls between service providers and immigration enforcement authorities, ensuring that no enforcement operations are carried out in or near mental health-care or support facilities;</p>
<p>SR health (2018), A/73/216 (para.83(g))</p>	<p>Develop direct, rights-based mental health care and support services for people on the move. These should address their needs for safety, for community participation and for livelihoods; acknowledge that the social, cultural, economic, political and legal determinants of mental health and well-being should inform interventions; cater to the cultural, religious and linguistic needs of users; and be suitable to their context;</p>
<p>SR health (2018), A/73/216 (para.83(i))</p>	<p>Ensure the sustainability and non-discrimination of mental health care and support interventions for all people, including people on the move, through effective referrals of people on the move to appropriate services and through the broad incorporation of their needs into existing mental health systems;</p>
<p>SR health (2018), A/73/216 (para.83(j))</p>	<p>Include human rights education, including on the right to mental health and the rights of people on the move, in the training of all front-line workers interacting with them, including all health-care workers;</p>
<p>SR health (2018), A/73/216 (para.83(k))</p>	<p>Ensure that specialized health-care professionals work alongside community-based health-care workers, social service professionals and peer supporters on matters concerning the mental health care of and support for all people, including people on the move;</p>
<p>SR health (2018), A/73/216 (para.83(l))</p>	<p>Foster cooperation between humanitarian and development actors in the field of mental health and refrain from developing parallel health-care systems;</p>

<p>SR health (2013), A/HRC/23/41 (para.76(a))</p>	<p>The right to health approach to migrant workers fills gaps in existing frameworks that protect migrant workers and their families and bolsters protections contained therein. It provides necessary safeguards to migrant workers by recognizing that migrant workers and nationals of a specific State have equal rights which must not be limited. The Special Rapporteur recommends that sending and receiving States take the following steps in order to realize the right to health of migrant workers:</p> <p>Institute, for regular and irregular migrant workers, evidence-based and gendered national health policies informed by the right to health framework, in particular non-discrimination and equality. Such policies should extend rights and entitlements – including underlying determinants of health – and redress mechanisms in cases of violation to migrant workers;</p>
<p>SR health (2013), A/HRC/23/41 (para.76(h))</p>	<p>Delink access to health facilities, goods and services from the legal status of migrant workers and ensure that preventative, curative and emergency health facilities, goods and services are available and accessible to all migrant workers, including irregular migrant workers, in a non-discriminatory manner. States should endeavour to prevent treatment interruption for migrant workers and remove barriers to accessing health care, such as those that are linguistic, cultural, administrative and employment-related;</p>
<p>Special Rapporteur on the right to education (2017), A/72/496 (para.115)</p>	<p>Bilingual and native language instruction should be provided in schools with significant numbers of students from linguistic minority groups. This is especially relevant today with regard to schools that are being established for migrants and refugees, who already face significant additional barriers to integrating into a foreign education system and a foreign culture. Respect for diversity should be reflected in curricula, which should be sensitive to the culture and religion of learners</p>

SR education (2010),
A/HRC/14/25 (para.83)

The Special Rapporteur perceives a crucial need for States, donors, international agencies and civil society to work collaboratively together, as substantial movement and migration across national borders will continue to define our globalized world. Their joint aim should be to build and sustain cohesive and resilient communities able to adapt in response to change. To this end, the Special Rapporteur recommends that exchange of good practice is increased and, at a minimum, all should look to:

Foster the view in all learning settings, both formal and non-formal, that cultural and linguistic diversity is a resource from which individuals and groups can build strong and supportive sustainable communities. Develop educational strategies which strengthen the capabilities of marginalized communities as a whole, while addressing the specific educational needs of migrants, refugees and asylum-seekers. Such strategies should look to embedded and coordinated mainstream lifelong learning which prioritizes early integration and the recognition of prior learning. Pay increased attention to quality linguistic and culturally appropriate early childhood, primary, post-primary and tertiary education that is responsive to the developmental needs of a region and the value of regional understanding and tolerance. Integrate the human rights framework (protection issues including teachers' code of conduct) into curricula and the learning environment. Establish individual curricula or tutoring programmes that support majority language acquisition and, if necessary, other subject areas, so that majority language learning and subject matters can be learned at the same time. These should be offered in mainstream schools and without creating segregated adaptation groups and classes. Make available and promote information/materials on education (and welfare) systems with respect to rights, opportunities and responsibilities in migrant languages and in accordance with migrant, refugee and asylum-seeker population needs. Improve (national) monitoring systems regarding access to and learning outcomes of migrants and refugees, including data on gender parity and disability. This should include information on the language used in the home and/or the language of instruction of previously completed education institutions in order to monitor language development and language-related drop out. Prompt development of regional and international qualification systems, incorporating mutual, reciprocal and automatic recognition of informal and formal learning achievements. This should be accompanied by increased research on potential and viable solutions to issues of equivalency in the learning environment and the workplace. Close the lacuna in research, advocacy and awareness of the educational experience and needs of: (i) migrants, refugees and asylum-seekers with disabilities; (ii) women from these groups; (iii) second-generation migrants; and (iv) unaccompanied asylum-seeking children

<p>SR education (2010), A/HRC/14/25 (para.84)</p>	<p>The Special Rapporteur emphasizes that teachers and other personnel working with migrants, refugees and asylum-seekers are in need of strong support such as new organizational structures and new teaching forms; this requires action beyond the teacher/school meso-level, towards a more active State, and desegregationist measures at the micro- or community level (e.g. housing policies). More specifically this will involve: Increased recruitment of highly competent teachers, and teachers with relevant migrant backgrounds to facilitate more effective individualized pedagogical support (individual curricula), especially at the nursery/kindergarten and primary levels with respect to language acquisition. Multi- and intercultural education (awareness-raising, socio-linguistics, communication skills and intercultural competence) made integral to teacher education curricula. In-service specialist training should be obligatory and take place during working hours to avoid increasing the workload of teachers. Team-teaching and the support of the classroom teacher by a specialist, as well as mentoring in different forms and by different actors (e.g. higher education students or older role models of immigrant origin), which can improve school attainment. In refugee contexts, training to deal with traumatized learners and psychosocial support and expert counselling for both teachers and refugees</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2017), A/72/164 (para.81(d))</p>	<p>Ensure the provision of health and psychosocial services in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, as well as access to education, religious and cultural practices. Ensure also that practitioners are trained and supported in working with distressed, traumatized children and victims of trafficking and exploitation. Services must be child-friendly and give consideration to the cultural, religious and social norms and values of these children;</p>
<p>SR trafficking (2017), A/HRC/35/37 (para.108)</p>	<p>States should promote policies aimed at identifying and eliminating barriers to effective access to grievance and other dispute resolution mechanisms, such as complex administrative procedures, unreasonable costs, fear of discrimination or retaliation and dismissal and, in the case of migrant workers, fear of detention or deportation</p>
<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.205)</p>	<p>The risk of discrimination on multiple grounds such as race, ethnicity, gender and class has increased with the feminization of migration. Governments should: ... Ensure respect for the social and economic rights of women migrant workers, including those working in the informal sector and domestic workers, on matters such as pay, annual and maternity leave, social security and protection; Provide and ensure access to education and training, as well as to income-generating activities, for migrant women; Promote sustained measures to ensure that migrant women who have been victims of gender-based crimes, such as rape and other forms of violence, including domestic violence, forced prostitution and trafficking, are granted adequate legal protection and support; Design health policies and training programmes for health care professionals to promote understanding and respect for different cultural backgrounds and personal experiences relating to health, disease, sexuality, pregnancy and childbirth; educate and train health care professionals to deal with the specific health needs of migrant women;</p>

<p>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context SR adequate housing (2017), A/72/128 (para.82(a)(xv))</p>	<p>Ensure that refugees, internally displaced persons and migrants with disabilities enjoy their right to adequate housing, notably by including the relevant international human rights provisions in the forthcoming global compact on refugees and the global compact for safe, orderly and regular migration;</p>
<p>SR adequate housing (2015), A/70/270 (para.76(f))</p>	<p>Focus on eliminating social exclusion, inequality and discrimination as human rights violations and prevent the criminalization and stigmatization of people on the basis of their housing status. Particular housing experiences and needs of all migrants, displaced persons, persons with disabilities and women, children and youth in situations of vulnerability should be addressed;</p>
<p>SR adequate housing (2010), A/65/261 (para.82)</p>	<p>Access to essential services provided by the State is often critical for migrants in vulnerable situations. As part of their responsibility to fulfil human rights and in line with the non-discrimination principle, States must work to overcome inequalities affecting migrants' access to housing, water supply, sanitation systems and other essential services</p>
<p>SR adequate housing (2010), A/65/261 (para.83)</p>	<p>States should elaborate and adopt a national housing strategy that establishes the objectives and available resources, time frame and responsibilities for the development of appropriate housing conditions that include the needs of migrants. In addition, States should ensure that laws, strategies and plans of action are implemented in such a way as to address discrimination by public and private actors, in particular with regard to the right to adequate housing, and take account of the situation of documented and undocumented migrants. State policies should include special measures and incentives to change the attitudes of public and private actors towards migrants. States should frequently review the regulations governing housing allocation in the public and private spheres and adopt effective inspection and enforcement mechanisms</p>
<p>SR adequate housing (2010), A/65/261 (para.84)</p>	<p>Measures to ensure access to adequate housing for migrants require effective universal housing policies, in addition to specific policy measures addressed to migrants. Targeted policies are necessary to make up for deficiencies in the market and the public provision of housing and to ensure equal access where embedded discriminatory practices prevent this from happening. Effective targeted policies require a reliable assessment of the housing needs of migrants, conducted in consultation with them. Matching the elaboration of universal policies inclusive of migrants with the adoption of special plans to address their particular housing challenges is thus recommended to help foster the real integration of migrants into the community and to promote the enjoyment of their right to adequate housing</p>

<p>SR adequate housing (2010), A/65/261 (para.89)</p>	<p>Discrimination and xenophobia affect the living conditions of migrants and their coexistence with the local community. They have thus been identified as key factors in the exclusion of migrants from adequate housing. States need to combat xenophobia and discrimination as a matter of urgency and ensure that no legislative or administrative acts reinforce discrimination against migrants with regard to their access to social or private housing. Moreover, States should take effective measures to ensure that housing agencies and private landlords refrain from engaging in discriminatory practices</p>
<p>SR adequate housing (2010), A/65/261 (para.90)</p>	<p>States must protect migrants from discrimination in access to housing by public and private actors, through appropriate judicial and administrative procedures, and guarantee redress to victims. Accordingly, States should adopt all necessary administrative and legislative measures and provide the appropriate mechanisms to prosecute and sanction discrimination and unfair and degrading treatment against migrants regarding their access to housing and should offer effective grievance mechanisms and remedies to the victims</p>
<p>SR adequate housing (2010), A/65/261 (para.91)</p>	<p>Policies and resources to ensure equality of access to affordable housing are essential. States should ensure that affordable housing is available in areas containing a high proportion of migrants. Moreover, States should adopt measures to make the allocation of housing by public landlords more transparent</p>
<p>SR adequate housing (2010), A/65/261 (para.92)</p>	<p>Transparency in the allocation of private housing is equally essential to ensure the appropriate treatment of migrants in the private housing sector. Besides monitoring the behaviour of the housing market in terms of rent prices and guarantees of fair and equal treatment, it is recommended that States establish mechanisms for the registration and regulation of private landlords, thus allowing for more effective monitoring of the allocation of housing to migrants</p>
<p>SR adequate housing (2010), A/65/261 (para.93)</p>	<p>The provision of housing should not be denied to undocumented migrants; even they must be afforded a minimum level of housing assistance that ensures conditions consistent with human dignity</p>
<p>SR adequate housing (2010), A/65/261 (para.94)</p>	<p>Education is a fundamental element in combating discrimination. States should provide training to authorities at the policymaking level and to officials working in the housing sector on human rights principles and standards, particularly on the right to adequate housing and on the principles of non-discrimination and equality of all</p>
<p>Special Rapporteur on the human rights to safe drinking water and sanitation (2018), A/HRC/39/55 (para.68(a))</p>	<p>The Special Rapporteur recommends that States: Guarantee the human rights to water and sanitation by refugees, asylum seekers and migrants in transit or at their destination with the same conditions as those granted to nationals of the States concerned, regardless of their legal status and documentation;</p>

<p>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2013), A/HRC/23/56 (para.57(h))</p>	<p>Teachers at all levels of education should benefit from specialized training, including awareness-raising, in how to prevent racism, xenophobia and other forms of discrimination. Special emphasis should be placed on the situation of minority or vulnerable groups within their country, such as Roma or other minorities, persons of African descent, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination. International norms prohibiting racism and racial discrimination and their implementation under domestic law should be emphasized in the curriculum;</p>
<p>SR racism (2013), A/HRC/23/56 (para.57(l))</p>	<p>States should carefully evaluate the potential impact of budgetary restrictions on education, and ensure that they do not have a discriminatory and disproportionate impact on the enjoyment of the right to education of disadvantaged groups, including minorities, Roma, people of African descent, migrants, undocumented migrants, refugees, asylum seekers and the victims of caste-based discrimination;</p>
<p>SR religious intolerance (2001), A/CONF.189/PC.2/22 (para.135)</p>	<p>The development of a preventive strategy to combat the various types of discrimination therefore requires the systematic collection, not only at the national and regional levels but also, more importantly, at the international level, of specific data on the situation of such children and, in particular, data on literacy rates, school drop-out rates and unemployment rates, broken down by ethnic and/or religious group and compared with the rates for society as a whole. The collection of such data should also include the content of education, the teaching approach used in certain subjects related to interculturalism, the state of language teaching for the school population as a whole, teaching in the language or languages of minorities, religious education, and information on the best practices of States with regard to the prevention of racial discrimination and religious intolerance, in order to help other States save time and money by not repeating the same mistakes. Collecting data of this kind is essential if the effects of educational policies on children from minorities or ethnic/religious groups are to be measured and, where necessary, rectified</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CESCR Statement on duties of States towards refugees and migrants under the International Covenant on economic, social and cultural rights (2017), E/C.12/2017/1 (para.III.13)</p>	<p>In addition to ensuring access to health care without discrimination, strict walls should exist between health-care personnel and law enforcement authorities, and adequate information should be made available in the language commonly spoken by migrants in the host country, in order to ensure that such situations do not result in migrants avoiding seeking and obtaining health care</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.72)</p>	<p>States parties ... shall ensure that migrant women have access to appropriate prenatal and postnatal health care, safe reproductive health services, and to emergency obstetric care</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.73)</p>	<p>Although medical care need not necessarily be free of charge, equality of treatment requires that the same rules for payment of fees or exemption from payment apply to migrant workers and members of their families as to nationals. States parties should prohibit the charging of excessive fees from migrant workers in an irregular situation or requiring immediate payment or proof of payment before the service is delivered. Urgent medical care should never be withheld due to the inability to pay. States parties should also ensure that migrant workers and members of their families are provided with information on the medical care provided and information about their health rights. States parties should also ensure that doctors and health professionals are provided with culturally sensitive training regarding health care for migrant workers and members of their families</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.3.74)</p>	<p>States parties shall not conduct immigration enforcement operations on or near facilities providing medical care, as this would limit migrant workers and members of their families from accessing such care</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.4.77)</p>	<p>To ensure access to education, the Committee is also of the view that States parties shall not require schools to report or share data on the regular or irregular status of pupils or their parents to immigration authorities or conduct immigration enforcement operations on or near school premises, as this would limit access to education by children of migrant workers. States parties should also clearly inform school administrators, teachers and parents that they are not required to do so either</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.D.4.78)</p>	<p>The Committee is of the view that States parties should also ensure access for children of migrant workers in an irregular situation to mother-tongue instruction if already available to children of migrant workers who are documented as having the same mother tongue</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.51)</p>	<p>States should not interfere with children’s right to housing by means of measures which prevent migrants from renting properties. Measures should be taken to ensure that migrant children, regardless of their status, are able to access homeless shelters</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.52)</p>	<p>States should ensure that irregular migrant children are not criminalized for exercising their right to housing and that private actors, such as landlords and civil society organizations, who facilitate their exercise of this right are also not criminalized</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.54)</p>	<p>The Committees are aware that migrant and refugee children may experience severe emotional distress and may have particular and often urgent mental health needs. Children should therefore have access to specific care and psychological support, recognizing that children experience stress differently from adults</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.55)</p>	<p>Every migrant child should have access to health care equal to that of nationals, regardless of their migration status. This includes all health services, whether preventive or curative, and mental, physical or psychosocial care, provided in the community or in health-care institutions. States have an obligation to ensure that children's health is not undermined as a result of discrimination, which is a significant factor contributing to vulnerability; the implications of multiple forms of discrimination should also be addressed. Attention should be paid to addressing the gender-specific impacts of reduced access to services. In addition, migrant children should be provided full access to age appropriate sexual and reproductive health information and services</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.56)</p>	<p>Migrant children should have access to health services without being required to present a residence permit or asylum registration. Administrative and financial barriers to accessing services should be removed, including through the acceptance of alternative means of proving identity and residence, such as testimonial evidence</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.60)</p>	<p>Migrant children should have access to alternative learning programmes where necessary and participate fully in examinations and receive certification of their studies</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.60)</p>	<p>The Committees strongly urge States to expeditiously reform regulations and practices that prevent migrant children, in particular undocumented children, from registering at schools and educational institutions. States should also develop effective firewalls between educational institutions and immigration authorities and prohibit the sharing of students' data as well as immigration enforcement operations on or near school premises, as these practices limit or deprive migrant children or children of migrant workers in an irregular situation of their right to education. To respect children's right to education, States are also encouraged to avoid disruption during migration-related procedures, avoiding children having to move during the school year if possible, as well as supporting them to complete any compulsory and ongoing education courses when they reach the age of majority. While access to upper-level education is not compulsory, the principle of non-discrimination obliges States to provide available services to every child without discrimination on the basis of their migration status or other prohibited grounds</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.61)</p>	<p>States should put in place adequate measures to recognize the child's former education by acknowledging previously obtained school certificates and/or issuing new certification based on the child's capacities and capabilities, to avoid creating stigmatization or penalization. This is equally applicable to countries of origin or third countries in the case of return</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.62)</p>	<p>States are encouraged to dedicate staff to facilitating access to education for migrant children and to promoting the integration of migrant children into schools. In addition, States should take measures aimed at prohibiting and preventing any kind of educational segregation, to ensure that migrant children learn the new language as a means for effective integration. State efforts should include the provision of early childhood education as well as psychosocial support. States should also provide formal and non-formal learning opportunities, teacher training and life skills classes</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.H.52)</p>	<p>States should develop procedures and standards to establish firewalls between public or private service providers, including public or private housing providers, and immigration enforcement authorities</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.I.56)</p>	<p>Effective firewalls should be put in place in order to ensure [the] right to health</p>
<p>CESCR General comment No.22: on the right to sexual and reproductive health (2016), E/C.12/GC/22 (para.II.B.31)</p>	<p>Laws, policies and programmes, including temporary special measures, are required to prevent and eliminate discrimination, stigmatization and negative stereotyping that hinder access to sexual and reproductive health... refugees, stateless persons, asylum seekers and undocumented migrants, given their additional vulnerability by condition of their detention or legal status, are also groups with specific needs that require the State to take particular steps to ensure their access to sexual and reproductive information, goods and health care</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following: ... States parties should ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers. All required pre-departure HIV/AIDS testing or pre-departure health examinations must be respectful of the human rights of women migrants. Special attention should be paid to voluntariness, the provision of free or affordable services and to the problems of stigmatization (articles 2 (f) and 12)</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.f.48)</p>	<p>The obligation under article 39 of the Convention sets out the duty of States to provide rehabilitation services to children who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or armed conflicts. In order to facilitate such recovery and reintegration, culturally appropriate and gender-sensitive mental health care should be developed and qualified psychosocial counselling provided</p>

Objective 16: Empower migrants and societies to realize full inclusion and social cohesion

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2018), A/73/216 (para.83(a))	Take immediate steps to repeal laws and policies that criminalize irregular migration or that, based on immigration status, impede the ability of people on the move to participate in or develop meaningful relationships in their host communities, work, obtain an education or have access to services, including mental health care and support;
Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(c))	Enable people to promote and protect human rights regardless of their immigration status; in particular, people on the move and those who defend their rights should be able to exercise, inter alia, their right to freedom of information, freedom of expression, freedom of association and freedom of assembly;
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2010), A/HRC/14/43 (para.66)	While the debates surrounding the concept of so-called “national identity” may focus on how to provide individuals and groups of individuals with a sense of belonging, which helps to build a cohesive nation with shared values and ideals, it should not be used as a tool to create artificial differences among some groups of the population. In the current context of globalization, migration and multiculturalism, the Special Rapporteur recommends that the concept of national identity be handled in an inclusive manner so as to allow individuals who do not identify with, for instance, cultural or historical elements of a given country, to nonetheless get a sense of belonging and avoid being treated as the outsiders. Moreover, the Special Rapporteur recommends that State actors and non-State actors ensure that any debate on national identity follows a participatory approach in order to enable meaningful participation of civil society. Such debate should also take into account the multiplicity of identities of each individual and therefore avoid the trap of defining identity by relying on the grounds of one sole element, such as ethnicity or nationality
SR Racism (2007), A/62/306 (para.69(h))	Recall the urgency and necessity of approaching immigration and asylum issues, which are major sources of the current resurgence of racism and xenophobia, with a view to respecting and protecting immigrants’ and asylum-seekers’ human rights, as guaranteed by the relevant international instruments, and not solely on the basis of such considerations as security and defence of national identity. In that vein, integration policies should reflect respect for the cultural and religious specificities of immigrants and their capacity to enrich national culture and identity

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<p>SR Racism (2006), A/HRC/32/50 (para.74)</p>	<p>In relation to migration, there is a need to find innovative ways to draw social solidarity from the existing local cultural, social and political context. All actors — including local officials, leaders, private actors, and service providers — who have the power to bring about immediate positive change need to be sensitized to the value of social solidarity. There is a need to move away from a purely State-centred approach and to put further emphasis on a bottom-up implementation of policies to foster social tolerance, mutual respect and trust. Assertions of rights based on the minority status of individuals or groups can be effective in drawing attention to patterns and practices of discrimination including xenophobia. However, as this strategy requires groups that are already in vulnerable situations to be made visible, the necessary safeguards should be taken in order to prevent a further entrenching of categories. For example, Portugal has established a coherent integration policy for immigrants and seriously encourages intercultural dialogue. This is managed by the High Commission for Immigration and Intercultural Dialogue, which is responsible for enacting a progressive action plan for immigrant integration that has clear implementation deadlines</p>
<p>Special Rapporteur on freedom of religion or belief (2009), A/64/159 (para.70)</p>	<p>With regard to the situation of migrants, the Special Rapporteur is concerned at restrictions imposed on their freedom to manifest their religion or belief publicly and she recalls that according to international human rights law any such limitations must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. In addition, States should implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their accommodation into social, cultural, political and economic life</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.VII.37)</p>	<p>Take the necessary measures to prevent practices that deny non-citizens their cultural identity, such as legal or de facto requirements that non-citizens change their name in order to obtain citizenship</p>
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.J.63)</p>	<p>States should develop concrete measures to foster intercultural dialogue between migrant and host communities and to address and prevent xenophobia or any type of discrimination or related intolerance against migrant children. In addition, integrating human rights education, including on non-discrimination, as well as migration and migrants' rights and children's rights, within education curricula would contribute to preventing in xenophobic or any form of discriminatory attitudes that could affect migrants' integration in the long term</p>

Objective 17: Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration

Guidance from Special Procedures

Source	Guidance
SR migrants (2018), A/73/178/Rev.1 (para.77(b))	With regard to migrant women States should: Take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal proceedings;
Special Rapporteur on the human rights of migrants (2015), A/70/310 (Section A (p.19))	Ensure the total elimination of wage discrimination on the basis of nationality
SR migrants (2013), A/HRC/23/46 (para.89)	Avoid criminalization of irregular migrants in language, policies and practice, and refrain from using incorrect terminology such as “illegal migrant”
SR migrants (2010), A/65/222 (para.67)	Migration governance should be clearly human-centred, and grounded in human rights law, and it should therefore recognize the inherent dignity of every human being, promote equality and the prohibition of discrimination and fully incorporate the principle of equal opportunities and choices for all so that everyone, regardless of immigration status, can develop their own unique potential and have a chance to contribute to development and social progress. Ensuring that all migrants, regardless of their immigration status, enjoy their internationally recognized human rights at all stages of the migratory processes in countries of origin, transit and destination should be the guiding principle of migration governance
SR migrants (2010), A/65/222 (para.82)	States should prohibit ethnic profiling of migrant communities as a form of discrimination
SR migrants (2010), A/65/222 (para.84)	In particular, States should: (a) Develop or strengthen programmes, including ensuring civil society participation, meant to tackle xenophobia in public speech and the media and discrimination and intolerance against migrants and their families; (b) Ensure that effective remedies are available to victims of racism, racial discrimination, xenophobia and related intolerance and monitor the responses of the judicial system to allegations of xenophobia and hate crimes against migrants, with due regard for age and gender considerations; (c) Implement intercultural policies aimed to raise children in an environment that accepts and values differences, discouraging racism and xenophobia and fostering children’s participation in the design and implementation of such policies; (d) Strengthen awareness-raising programmes to combat prejudice against migrant communities and increase awareness-raising efforts to prevent abusive practices by employers, regardless of immigration status
SR migrants (2008), A/HRC/7/12 (para.74)	Further consideration needs to be given to better integrating statistics into flexible, inclusive, and sustainable decision-making processes to govern admission, employment and residence status of migrants, as well as communication/education campaigns on the benefits of migration to the local and national economy. Recognition of demand-driven labour migration should mitigate the potential for anti-immigrant sentiments and rhetoric

<p>SR migrants (2006), A/61/324 (para.56)</p>	<p>Governments should undertake public awareness campaigns regarding the need for migrant labour and the contributions made by migrants to their economies so as to better combat the racist feelings and anti-migrant arguments of certain sectors of their population</p>
<p>SR migrants (2002), A/57/292 (para.74)</p>	<p>The Special Rapporteur recommends that efforts should be made not to polarize the debate on migration, since the protection of the human rights of migrants is not incompatible with either the exercise of sovereignty by States or the practical implementation of national security policies</p>
<p>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018), A/HRC/38/52 (para.67(b))</p>	<p>In addition, the Special Rapporteur urges States to adopt the following concrete measures aimed at eliminating and preventing racial discrimination in the context of citizenship, nationality and immigration: Especially with respect to citizenship and nationality, adopt and implement article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, as explained by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 30. States are prohibited from restricting the rights of non-citizens in any way that is not proportionately tailored to achieve a legitimate aim grounded in the substantive racial equality framework of the Convention. Under the Convention relating to the Status of Refugees and the International Convention on the Elimination of All Forms of Racial Discrimination, blanket bans on specific nationalities and other immigration measures that exclude on the basis of race, colour, ethnicity or national origin are unlawful. States must take immediate steps to undo any measures of this sort;</p>
<p>SR racism (2018), List of additional recommendations in relation to report A/HRC/38/52 on racial discrimination in the context of laws, policies and practices concerning citizenship, nationality and immigration (p.3)</p>	<p>Provide human rights and non-discrimination training to all civil servants, including those involved in issues relating to nationality, citizenship and immigration</p>
<p>SR racism (2006), A/HRC/32/50 (para.77)</p>	<p>While generalized frameworks and principled statements calling for tolerance and inclusion are an important and necessary step, there are few concrete sources that correlate intervention strategies, local conditions and rates of success. Only through concrete independent monitoring and critical evaluation — by all actors — can we develop the insights necessary to improve future interventions' chances of being successful. In this regard, the Special Rapporteur reiterates the recommendation to establish independent national anti-discrimination monitoring bodies with the power to monitor the effectiveness of policies and enforce anti-discrimination legislation, to receive and act upon individual complaints of discrimination and to accompany vulnerable groups in their claims for justice and equality. Furthermore, research and monitoring of citizens' attitudes towards immigrants, refugees, and other minorities perceived as outsiders should be conducted on a regular basis to feed into policies over time and to inform any necessary adjustments</p>

<p>SR racism (2015), A/HRC/29/46 (para.67)</p>	<p>The Special Rapporteur calls upon political leaders and heads of law enforcement agencies to speak out publicly against discrimination and to avoid making statements linking race or ethnicity to criminal behaviour, irregular migration or terrorism, in order to repair the harm caused to minority communities by the use of racial and ethnic profiling and to ensure that these groups and individuals are able to fully integrate into their societies</p>
<p>SR racism (2015), A/HRC/29/46 (para.72)</p>	<p>The Special Rapporteur also strongly recommends that law enforcement agencies provide their officers with clear standards and instructions on permissible versus impermissible uses of ethnicity, race and national origin in conducting their work. Requiring that law enforcement officers have objective grounds for reasonable suspicion on the basis of a person's behaviour rather than on the basis of their appearance is a fundamental safeguard against ethnic profiling and should be clearly established as a prerequisite before any police or immigration stop. Operational protocols, regulations and training should provide detailed and practical guidance for all law enforcement officers on how to carry out their duties in full compliance with non-discrimination standards</p>
<p>SR racism (2014), A/69/334 (para.86)</p>	<p>The Special Rapporteur welcomes efforts undertaken to train law-enforcement agents, including the police, immigration officers, judges and lawyers, on human rights and non-discrimination. He notes, however, that ethnic profiling and police violence against vulnerable groups are recurring issues in several countries that discourage victims from seeking redress, owing to distrust of the legal system. He encourages States to adopt and strengthen measures to improve diversity within law-enforcement agencies and impose appropriate sanctions against those within the public service found guilty of racially motivated violence or of using hate speech, including prosecutors and judges and also immigration officials and border guards</p>
<p>SR racism (2014), A/69/334 (para.99)</p>	<p>Ensure that all migrant victims of abuse and exploitation have access to effective remedies, including the possibility of pursuing compensation claims, regardless of their residence status, without fear of retribution. Migrants should be provided with easy access to effective mechanisms for bringing complaints about violations of their rights, including a free phone number they can call to report cases in their own language. National human rights institutions have an important role to play in this respect, and consulates and embassies should also assist their nationals. Complaint mechanisms should be streamlined so that migrants can register their complaints with one Government office. All complaints should be promptly investigated, regardless of the residence status of the migrant</p>
<p>SR racism (2013), A/68/329 (para.148)</p>	<p>The capacity of law enforcement officers should be improved so that they can better protect the rights of the most vulnerable groups and address occurrences of racially motivated crimes. There is a need for systematic, continuous training and awareness-raising on the anti-discrimination legal framework and practice for all law enforcement officers, prosecutors and judges and also immigration officials and border guards, where appropriate</p>

<p>SR racism (2013), A/HRC/23/56 (para.57(c))</p>	<p>In particular, States should adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal, take all appropriate measures to eliminate obstacles limiting the access of children to education, including through affirmative action programmes of a temporary nature, and ensure that all children, especially those of African descent, minorities, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination have access without discrimination to good-quality education, including higher education. Measures to eliminate obstacles limiting access to quality education include committing appropriate resources to eliminating inequalities in educational outcomes;</p>
<p>SR racism (2012), A/67/328 (para.91)</p>	<p>Therefore, the Special Rapporteur recommends that States effectively guarantee to these groups, without discrimination of any kind, the right to security and access to justice, including through effective remedies, adequate reparation, legal aid and appropriate information about their rights, as well as the prosecution and adequate sanction of those responsible for racist crimes against them. In this respect, the Special Rapporteur would also like to recall paragraph 88 of the Durban Declaration, in which it is recognized that the media should represent the diversity of a multicultural society and play a role in fighting racism, racial discrimination, xenophobia and related intolerance</p>
<p>SR racism (2012), A/67/328 (para.92)</p>	<p>Concerns expressed by the Special Rapporteur in his report to the Human Rights Council (A/HRC/20/38) regarding in particular the scapegoating of certain groups, including migrants, refugees and asylum seekers, in the context of the economic crisis, and the nationalistic rhetoric in which some traditional political parties have also engaged were raised in some of the contributions received. The Special Rapporteur reiterates the recommendations made in the aforementioned report regarding the responsibility of political leaders and parties in condemning and refraining from disseminating messages that scapegoat vulnerable groups and incite racial discrimination or xenophobia</p>
<p>SR racism (2012), A/67/328 (para.96)</p>	<p>Training provided to State agents, including the police and immigration officers, on human rights and non-discrimination and the gathering of information on extremist groups are welcomed by the Special Rapporteur. He encourages States to adopt further measures to sensitize the police on the ideologies of extremist political parties, movements and groups that incite racial discrimination and xenophobia. He further recommends the strengthening of their capacity to address racist and xenophobic crimes and actively engage with groups and individuals particularly vulnerable to racist acts by extremist individuals or groups</p>

<p>SR racism (2012), A/HRC/20/33 (para.51)</p>	<p>States should develop and implement national action plans to combat racism and racial discrimination and establish specialized bodies and mechanisms. National action plans are vital as they provide a comprehensive approach and roadmap to tackling the problems of racism and racial discrimination in national contexts. Such plans should incorporate a framework of action for the prevention of racism with concrete legal, policy, and programmatic measures specifically targeted at preventing racism, including in the areas of immigration policy, policing and administration of justice. Institutions and specialized bodies established to ensure adequate implementation should be provided with the necessary resources, including human, financial and technical. Human rights training focusing on the prevention of racism and racial discrimination should also be regularly provided to State agents</p>
<p>SR racism (2011), A/HRC/17/40 (para.80)</p>	<p>The Special Rapporteur recommends that States avoid portraying the situation of Roma migrants as an issue of public security and refrain from implementing security policies targeting Roma migrants in violation of international human rights standards and which lead to their collective expulsions. He calls upon States to respect the rights of Roma migrants as guaranteed by the relevant regional and international human rights instruments</p>
<p>SR racism (2010), A/65/295 (para.97)</p>	<p>While recognizing the sovereign right of each State to formulate and apply its own legal framework and policies in the area of migration, the Special Rapporteur urges States to ensure that those policies are at all times consistent with applicable international human rights instruments, norms and standards, and that they are free from racism and xenophobia</p>
<p>Special Rapporteur on freedom of religion and belief (2018), A/HRC/37/49 (para.87)</p>	<p>States are reminded of their obligation to provide protection to refugees and migrants, regardless of their specific religion or belief. The pretext that refugees and migrants would erode the traditional religious make-up of a country amounts to a “territorialization” of religion, which violates the spirit and the letter of the universal right to freedom of religion or belief</p>
<p>Special Rapporteur on freedom of religion and belief (2017), A/72/365 (para.74)</p>	<p>[T]he gap between commitments to combat intolerant acts and practices and their implementation needs to be addressed through transparent, credible and accountable policies executed at the national and local levels. States must repeal all laws that discriminate on the basis of religion or belief or that undermine the exercise of the right to freedom of religion or belief. Particular attention must be paid to upholding the obligation to protect the rights of members of religious minorities, as well as those of women, children, members of the lesbian, gay, bisexual, transgender and intersex community and others in vulnerable situations, such as migrants, refugees and internally displaced persons</p>
<p>Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018), A/73/152 (para.81(b))</p>	<p>Eliminate abusive requirements as prerequisites for change of name, legal sex or gender... This should extend to ensuring that a person’s criminal record, immigration status or other status is not used to prevent a change of name, legal sex or gender;</p>

<p>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (2010), A/65/261 (para.85)</p>	<p>As part of social and cultural integration policies, States should involve migrants in decision-making processes and promote their active participation in public life through adequate representation and participation mechanisms. States should also inform migrants of their rights and duties in the country and promote their active exercise. Migrants are at a particular disadvantage as a result of lack of information. The need for appropriate housing information and advice to prevent housing exclusion and homelessness of migrants is essential, and States have the responsibility to provide it. They should ensure that information and advice on rights and duties relating to housing is available to migrants, including in their native languages. Furthermore, States should foster mutual understanding among local communities and ensure mutual respect for cultural diversity</p>
<p>SR adequate housing (2010), A/65/261 (para.94)</p>	<p>Education is a fundamental element in combating discrimination. States should provide training to authorities at the policymaking level and to officials working in the housing sector on human rights principles and standards, particularly on the right to adequate housing and on the principles of non-discrimination and equality of all</p>
<p>Special Rapporteur on religious intolerance (2001), A/CONF.189/PC.2/22 (para.137)</p>	<p>States and the relevant intergovernmental organizations should coordinate their efforts in order to take advantage of the enormous opportunities offered by modern means of mass communication. They should envisage, in particular, using the Internet more widely to promote tolerance and combat racism in schools; they should give greater prominence to the content of education in the fight against discrimination and intolerance by setting up web sites and specific programmes aimed at schools all over the world. The general thrust of these programmes could be concentrated on highlighting the unity of mankind and cultural diversity, the shared values of tolerance and an intercultural approach to the history of civilizations and religions. In the area of education, they could include training and documentation programmes focused on the prevention of discrimination and intolerance. Likewise, they could be particularly useful in raising human rights awareness by disseminating positive information about minorities and immigrants so that school children become less receptive to racist propaganda, xenophobia and intolerant attitudes. In sum, the Internet can also be a valuable tool in fighting discrimination and a formidable defence against the use of the web for propaganda purposes in schools</p>
<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.202(c))</p>	<p>Integrate an intersectional analysis. Attention should be given to addressing the intersection of gender and race in the drafting and revision of national legislation and policies. Attention to the role of race or its closely related analogues is necessary in part to ensure that gender mainstreaming is itself fully inclusive of the range of gender experiences. States should strive to integrate a gender perspective into all programmes of action and policies aimed at combating racism, racial discrimination, xenophobia and related intolerance. Similarly, race considerations need to be taken into account when adopting measures to eliminate gender discrimination. States should review all governmental policies and laws, including those on citizenship, nationality and immigration, for their impact on the elimination of all forms of discrimination and the achievement of gender equality, with particular reference to marginalized women. States should establish and/or strengthen legislation and regulations against all forms of racism, including its gender-specific manifestations</p>

<p>SR violence against women (2001), A/CONF.189/PC.3/5 (para.202(i))</p>	<p>Develop special training programmes to eliminate any racist and sexist stereotypes and prejudice among officials and staff most frequently in contact with marginalized women, such as labour officials, teachers, health professionals, immigration authorities, policemen, judges and other law enforcement officials. It is essential to provide financial and other resources for anti-racist and gender-sensitive training for the judiciary, the police and relevant governmental officials and personnel to increase their sensitivity to racial discrimination in a gender-specific manner</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(g))</p>	<p>Abolish discriminatory immigration policies that require mandatory testing for health conditions, such as HIV and pregnancy, which are not based on clearly established scientific evidence and violate the right to health;</p>
<p>Working Group of Experts on People of African Descent (2014), A/69/318 (para.74)</p>	<p>Potential discriminatory effects of certain domestic legislation should be eliminated, in particular with regard to legislation on terrorism, immigration and nationality, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or members of certain communities, including people of African descent, and in any case, respecting the principle of proportionality in its application</p>
<p>Independent Expert on human rights and international solidarity (2018), A/73/206 (para.50(f))</p>	<p>Delegitimize extremism and populist antagonism against global migrants: Consistent with their obligations under articles 4 and 7 of the Convention on the Elimination of All Forms of Racial Discrimination, States should make greater efforts (within the limits of the rights of everyone to freedom of expression and association) to discourage and delegitimize extremism and populist antagonism and rhetoric against migrants. These ills strongly negate the values of human rights-based international solidarity and run contrary to the proposed draft declaration on the right to international solidarity;</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.II.10)</p>	<p>Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping</p>
<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.V.21)</p>	<p>Combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights</p>

<p>CERD General recommendation No.30: on discrimination against non-citizens (2004), CERD/C/30 (para.V.24)</p>	<p>Regulate the burden of proof in civil proceedings involving discrimination based on race, colour, descent, and national or ethnic origin so that once a non-citizen has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.I.4)</p>	<p>The use of the term 'illegal' to describe migrant workers in an irregular situation is inappropriate and should be avoided as it tends to stigmatize them by associating them with criminality</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.1.22)</p>	<p>States parties are also required to take effective measures to fight all manifestations of racism, xenophobia or related intolerance against migrant workers and members of their families, especially those in an irregular situation, such as hate crimes, incitement to hatred and hate speech, including by politicians and in the media, and to raise public awareness about the criminal nature of such acts as well as to promote respect for migrant workers' human rights</p>
<p>CMW General comment No.1: on migrant domestic workers (2011), CMW/C/GC/1 (para.C.39)</p>	<p>States should take all necessary measures to promote a shift in public perceptions so that domestic work becomes widely recognized as work and domestic workers as workers with fundamental rights, including labour rights</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:..(vi) Encourage the media, information and communication sectors to contribute to awareness-raising on migration issues, including on the contributions women migrant workers make to the economy, women's vulnerability to exploitation and discrimination and the various sites at which such exploitation occurs</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.A.26)</p>	<p>The Committees are of the view that addressing only de jure discrimination will not necessarily ensure de facto equality. Therefore, States parties shall fulfil the rights under the Conventions for children in the context of international migration by adopting positive measures to prevent, diminish and eliminate the conditions and attitudes that cause or perpetuate de facto discrimination against them. They should systematically record incidences of discrimination against children and/or their families in the context of international migration, and investigate and sanction such conduct appropriately and effectively</p>

Objective 18: Invest in skills development and facilitate mutual recognition of skills, qualifications and competences

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/HRC/38/41 (para.93(c))	In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: Ensure that children are able to obtain a certificate in the country of destination attesting to the level to which they have completed their education;

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 19: Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2010), A/65/222 (para.66)	The enjoyment of human rights by migrants, regardless of immigration status, is a crucial means to ensure equitable human development and social development and justice for migrants. Migrants can play an active role in the social and economic development of host countries and contribute to the development of countries of origin and transit, particularly when their human rights are fulfilled in a manner that ensures equal opportunities and gender equality. Human rights, together with gender and age-sensitive strategies, should therefore feature prominently and systematically as an integral part of the overall strategy to achieve development in the context of migration

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 20: Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants

There is currently no explicit guidance from the Special Procedures or the Treaty Bodies on this objective

Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/73/178/Rev.1 (para.75(j))	Establish bilateral agreements to ensure that migrants who return to their country of origin have access to justice in the country of employment, in particular to report abuse and claim unpaid wages and benefits
SR migrants (2018), A/HRC/38/41 (para.87)	The return of migrants who do not meet international or national legal standards to remain in their host country should be conducted in safety, with due regard for dignity, humanity and respect for human rights, and in compliance with international law, on the basis of the primacy of voluntary returns; cooperation between States of origin and reception; and enhanced reception and reintegration assistance for those who are returned. Given the potentially dramatic consequences, including rights violations, of forced or coerced returns, priority should be given to independent and voluntary returns at all times
SR migrants (2018), A/HRC/38/41 (para.88)	States should facilitate the voluntarily return of migrants — fully informed, free of coercion and with sufficient valid alternatives, such as effective access to temporary permits for work, family unity, study or humanitarian purposes, and opportunities for permanent residency and citizenship — to their countries of origin or citizenship, including through cooperation on consular assistance and issuance of the necessary travel documents. A return cannot be considered voluntary if a migrant decides to return in order to, inter alia, avoid deportation or detention, flee from abusive or exploitative situations in destination or transit countries, or avoid the deprivation of socioeconomic rights in the destination country
SR migrants (2018), A/HRC/38/41 (para.89)	Forced returns should always be a measure of last resort, and only follow a fair and efficient process guaranteeing that all legal safeguards have been provided. No return should be implemented without due process of law, in a legal procedure where the migrant is effectively and properly represented and has access to effective remedies. All appeals and remedies, and procedural guarantees, should have a suspensive effect on deportation. Furthermore, no one should be returned without proper oversight by an independent post-return human rights monitoring mechanism
SR migrants (2018), A/HRC/38/41 (para.91)	Long-term solutions and safe, regular, accessible and affordable channels, rather than “quick fixes” (such as readmission agreements), are needed so as to ensure the protection of the human rights of migrants. Liability for human rights violations or other breaches of international law resulting from the actions of international or regional organizations during return procedures should be subject to investigation, and such stakeholders should be held accountable

<p>SR migrants (2018), A/HRC/38/41 (para.92(b))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Ensure that returns are decided on the basis of a procedure that ensures the confidentiality of information and during which the migrant is duly represented, has access to appropriate legal assistance and interpretation services, and has an effective opportunity to explain why a return would not be in respect of his or her rights; appeal procedures should have a suspensive effect;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(d))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Children, whether unaccompanied, separated or accompanied by their parents or other caregivers, should be returned only when the return has been determined to be in their best interests through an appropriate procedure before a competent institution that includes the proper representation of the child. Families should never be separated unless separation is necessary to ensure the best interests of the child; children should never be detained on the basis of their or their family’s migration status, and alternatives to deprivation of liberty, such as family-based solutions, should be adopted instead;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(e))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Ensure and facilitate, including as part of any readmission agreement, independent monitoring of pre-removal processes, return, reception and reintegration of migrants in countries of origin to guarantee compliance with international human rights;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(f))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Ensure that readmission agreements or clauses comply with international law, including the principle of non-refoulement, and guarantee transparency, monitoring, oversight and accountability. All stakeholders, including United Nations agencies, international organizations, non-governmental organizations of all States involved, national human rights institutions and ombudspersons, and migrants themselves, should be consulted prior to any conclusion of a readmission agreement;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(h))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Provide and publicize accessible complaint mechanisms that migrants may use without fear of retribution; and ensure prompt, impartial and independent investigation of violations of human rights against migrants; and bring States, international and regional organizations and other non-State actors found to be responsible of human rights violations to justice through a fair trial;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.92(i))</p>	<p>In order to ensure the respect for human rights of migrants in the context of returns, States and other stakeholders should: Ensure that reintegration programmes are provided for migrants who are returned to their countries of origin</p>

<p>SR migrants (2018), A/HRC/38/41 (para.93(b))</p>	<p>In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: Ensure that economic, sociocultural and psychosocial support is provided to returnee migrants and communities in the country of origin prior, during and after the return;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.93(e))</p>	<p>In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: In cases of forced return, conduct human rights risks assessments upon arrival in order to determine and provide the protection and assistance necessary to prevent human rights violations of migrants in returning countries; and decriminalize illegal border crossings and combat stigma and discrimination associated with irregular migration;</p>
<p>SR migrants (2018), A/HRC/38/41 (para.93(h))</p>	<p>In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: Collect and analyse disaggregated data, and conduct research on all aspects of the return of migrants in order to inform effective migration policies that respect the human rights of migrants, including in the context of returns</p>
<p>SR migrants (2010), A/65/222 (para.78)</p>	<p>States should not resort to collective deportations, which are contrary to international law and human rights standards. States should have regular monitoring mechanisms to prevent collective deportations and ensure that all removal or deportation orders and decisions comply with the safeguards recognized in article 22 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</p>
<p>SR migrants (2003), A/58/275 (para.27)</p>	<p>The Special Rapporteur reiterates that repatriation assistance in cases where migrants lose their jobs, wish to escape from abusive situations, or wish to be repatriated for health reasons should also be provided. Consulates and embassies should be financially empowered to assume these cases, as well as to assist in the repatriation of victims of trafficking at their express request. In particular, specific attention should be devoted and protection granted to unaccompanied minors</p>
<p>SR migrants (2003), A/58/275 (para.41)</p>	<p>The Special Rapporteur has documented numerous incidents that occurred in the process of deportation, some resulting in the death of the migrants involved. In this connection, the Special Rapporteur stresses that officials dealing with deportations must be trained to carry out their duties in a way that respects the rights and dignity of the persons involved. It should be stressed that migrants subjected to deportation procedures have most of the time only committed administrative infractions, but there is often a tendency to treat them like dangerous criminals</p>

<p>SR migrants (2003), A/58/275 (para.45)</p>	<p>The Special Rapporteur recommends the development of comprehensive reintegration programmes involving migrants, their families, Governments and civil society at large. Migrants and their families should be assisted to form organizations such as support groups and cooperatives. Migrants' communities should help in establishing business ventures and social enterprises that would generate long-term employment. Governments should help migrants to invest their savings by, for example, providing incentives for business development and business and management training. If migrants were provided with incentives to return to their countries of origin upon completion of their contracts, the chances of their overstaying their visas or work permits — thus becoming irregular migrants vulnerable to exploitation — would decrease</p>
<p>SR migrants (2002), A/57/292 (para.80)</p>	<p>It is recommended that all States should guarantee the right of everyone to leave any country, including his own, and to return to his country. Any obstacles to the right to exit and return, legitimately and with dignity, should be removed</p>
<p>Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2018), A/HRC/37/50 (para.65(g))</p>	<p>Training of officials: Officials or other persons tasked with the determination of refugee status and/or entitlement to subsidiary international protection should be appropriately trained in the conduct of the relevant assessments and the identification and documentation of signs of torture and ill-treatment, and should be aware that non-refoulement protection specifically against the risk of torture and ill-treatment is absolute and non-derogable and applies to all migrants regardless of their entitlement to refugee status, or of considerations of national or public security</p>
<p>SR torture (2018), A/HRC/37/50 (para.65(h))</p>	<p>Non-refoulement: States should refrain from any individual or collective deportation, transfer, or summary rejection of migrants without individualized risk assessment, including through extradition or readmission agreements, diplomatic assurances, border closures or "pushback" operations. Similarly, States should refrain from instigating, encouraging, supporting or otherwise facilitating or participating in "pullback" operations conducted by other States or non-State actors in violation of the right of migrants to seek international protection</p>
<p>Special Rapporteur on the situation of human rights defenders (2018), A/HRC/37/51 (para.66(f))</p>	<p>Ensure that all human rights defenders in exile benefit from the prohibition of refoulement to persecution, as articulated in the Convention relating to the status of refugees and other international instruments and customary international law;</p>
<p>Special Rapporteur on extrajudicial, summary or arbitrary executions (2017), A/72/335 (para.92)</p>	<p>[States] should abide at all times with the principle of non-refoulement, including on the high seas and at borders</p>
<p>SR extrajudicial executions (2017), A/HRC/35/23 (para.115)</p>	<p>States should include violence and killings against women and girls, and on the basis of gender identity and gender expression, as an integral part of refugee status determination and of the implementation of their non-refoulement obligations</p>

<p>Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.87)</p>	<p>In accordance with article 8 of the Declaration, States should prohibit, in both legislation and practice: (a) The expulsion, return (refoulement) or extradition of migrants to another State where there are substantial grounds to believe that they would be in danger of enforced disappearance. Any return must be the subject of careful individual assessment and follow due process, including the right to challenge the decision to expel/return. For the purpose of determining whether there are grounds for such challenges, the competent authorities should 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, in accordance with article 8 (2) of the Declaration; (b) The pushback of migrants to any country where they would be in danger of enforced disappearance</p>
<p>WG Disappearances (2017), A/HRC/36/39/Add.2 (para.88(f))</p>	<p>Formally document — and monitor, when possible — all returns of migrants and ensure that they are carried out in accordance with international standards in order to avoid disappearances during those processes, including temporary disappearances;</p>
<p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2016), A/71/384 (para.55(d))</p>	<p>The absolute prohibition of refoulement under international human rights law must always be respected, wherever a State exercises its jurisdiction, even on the high seas: States must respect their non-refoulement obligations even when the risk of ill-treatment emanates from non-State armed groups, including terrorist groups; and all decisions must be taken on a case-by-case basis, respect the prohibition of collective expulsions and comply with due process guarantees;</p>
<p>SR counter terrorism (2007), A/62/263 (para.84(b))</p>	<p>Urges States not to include in their national immigration and asylum legislation definitions relating to exclusion from international protection that would go beyond the recommendations of UNHCR, such as through the erroneous application of the exception to non-refoulement contained in article 33(2) of the 1951 Refugee Convention as an additional exclusion clause, which may effectively hinder persons in need of protection from obtaining asylum or some other protection status</p>
<p>Special Rapporteur on the right to food (2007), A/HRC/4/30 (para.69(f))</p>	<p>States should refrain from deporting people who have fled from their own countries as a result of hunger and violations of the right to food. States should institute legal protection for people forced to flee for reasons related to severe violations of economic and social rights into account, including violations of the right to food, either by revising existing international instruments on refugee protection, or through the adoption of new instruments;</p>

<p>SR food (2007), A/HRC/4/30 (para.69(g))</p>	<p>All Governments have a responsibility to respect the right to food. Article 11 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 12 of the Committee on Economic, Social and Cultural Rights create the extraterritorial obligation of all Member States to respect the right to food of all human beings, regardless of their citizenship. This responsibility must include the principle of non-refoulement for people whose lives will be at risk if they are deported. Governments should not expel, return or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of suffering from hunger, chronic undernutrition or violations of the right to food. Governments should recognize that refugees from hunger have the right to seek asylum and the right to temporary refuge during famine</p>
<p>Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2013), A/HRC/23/41 (para.76(l))</p>	<p>At minimum, States should ensure that migrant workers are not deported without referral for treatment or to States where the required treatment is not available and accessible;</p>
<p>Special Rapporteur on trafficking in persons, especially women and children (2011), A/HRC/17/35 (para.76)</p>	<p>States should also provide trafficked persons with temporary or permanent residence permits on social and humanitarian grounds, where a safe return to the country of origin is not guaranteed or a return would not otherwise be in the best interests of the trafficked person for reasons related to his or her personal circumstances, such as the loss of citizenship or cultural and social identity in the country of origin. States should also independently consider trafficked persons' claims for asylum, giving due consideration to any risks of reprisals and retaliation by traffickers which could constitute persecution within the meaning of the 1951 Convention relating to the Status of Refugees</p>
<p>Special Rapporteur on the sale and sexual exploitation of children (1999), E/CN.4/1999/71 (para.152(h))</p>	<p>All law enforcement agents, border police, customs and immigration officials, relevant governmental ministers, and members of the judiciary in the countries affected should be trained on and sensitized to issues of trafficking and the rights and needs of the victims. Immigration and deportation policies of the receiving countries should be revised to prevent further marginalization and traumatization of trafficked children;</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.4.52)</p>	<p>Article 22, paragraph 3, provides for the decision on expulsion to be communicated to the migrant worker concerned in a language he or she understands and, upon his or her request where not otherwise mandatory, in writing and with reasons, save in exceptional circumstances on grounds of national security. These rights are important to ensure due process, by enabling migrant workers to prepare their arguments with regard to such a decision. The right of the persons concerned to be informed of these rights before, or, at the latest, at the time the decision is rendered, serves the same purpose</p>

<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.4.53)</p>	<p>The right of a person to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority (art. 22, para. 4), includes the right to seek a stay of the decision of expulsion pending review of the said decision. While a stay of decision does not regularize the status of the person concerned for the time of the proceedings, it prevents the State party from expelling him or her before a final decision is rendered. In accordance with article 83 of the Convention, States parties are obliged to provide an effective remedy, including the right to review by a competent authority for migrant workers and their family members, whose rights and freedoms as recognized in the Convention have been violated. The Committee notes that migrant workers and members of their families must be given adequate time and facilities to pursue such a remedy against expulsion so as to ensure the effectiveness of their right to review. Such facilities should include the right to legal assistance and the assistance of an interpreter, if necessary, and be free of charge, if the circumstances of the case so require. The competent authority reviewing the decision of expulsion should ideally be a court. The right to appeal expulsion under article 22, paragraph 4, of the Convention may only be restricted for “compelling reasons of national security”</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.4.54)</p>	<p>Article 22, paragraph 5, states that if an expulsion decision that has already been executed is subsequently annulled, the person concerned has the right to seek compensation according to law. The expelling State shall ensure that the expelled person has the necessary facilities to pursue his or her compensation claim from abroad, for example, by appointing a legal representative. Furthermore, the expelling State may not invoke the earlier (annulled) decision to deny the person concerned re-entry into its territory</p>
<p>CMW General comment No.2: on the rights of migrant workers in an irregular situation and members of their families (2013), CMW/C/GC/2 (para.III.C.4.55)</p>	<p>States parties should, whenever possible, grant migrant workers and their family members a reasonable period of time prior to their expulsion to claim wages and benefits. States parties should also consider time-bound or expedited legal proceedings to address such claims by migrant workers. In addition, States parties should conclude bilateral agreements so that migrant workers who return to their State of origin may have access to justice in the State of employment to file complaints about abuse and to claim unpaid wages and benefits</p>
<p>CMW / CRC Joint general comment No.3 / No.22: on the general principles regarding the human rights of children in the context of international migration (2017), CMW/C/GC/3-CRC/C/GC/22 (para.III.B.32)</p>	<p>If determined that it is in the best interests of the child to be returned, an individual plan should be prepared, together with the child where possible, for his or her sustainable reintegration. The Committees stress that countries of origin, transit, destination and return should develop comprehensive frameworks with dedicated resources for the implementation of policies and comprehensive inter-institutional coordination mechanisms. Such frameworks should ensure, in cases of children returning to their countries of origin or third countries, their effective reintegration through a rights-based approach, including immediate protection measures and long-term solutions, in particular effective access to education, health, psychosocial support, family life, social inclusion, access to justice and protection from all forms of violence. In all such situations, a quality rights-based follow-up by all involved authorities, including independent monitoring and evaluation, should be ensured. The Committees highlight that return and reintegration measures should be sustainable from the perspective of the child’s right to life, survival and development</p>

<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.E.2.35)</p>	<p>Measures for parents to reunify with their children and/or regularize their status on the basis of their children’s best interests should be put in place. Countries should facilitate family reunification procedures in order to complete them in an expeditious manner, in line with the best interests of the child. It is recommended that States apply best interest determination procedures in finalizing family reunification</p>
<p>CEDAW General recommendation No.26: on women migrant workers (2009), CEDAW/C/2009/WP.1/R (para.24)</p>	<p>States parties should design or oversee comprehensive socio-economic, psychological and legal services aimed at facilitating the reintegration of women who have returned. They should monitor service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad, and should have complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses (articles 2 (c) and 3);</p>
<p>HRC General comment No.28: the equality of rights between men and women (2000), CCPR/C/21/Rev.1/Add.10 (para.17)</p>	<p>States parties should ensure that alien women are accorded on an equal basis the right to submit arguments against their expulsion and to have their case reviewed...In this regard, they should be entitled to submit arguments based on gender-specific violations</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.f.27)</p>	<p>Furthermore, in fulfilling obligations under the Convention, States shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child...The assessment of the risk of such serious violations should be conducted in an age and gender-sensitive manner and should, for example, take into account the particularly serious consequences for children of the insufficient provision of food or health services</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.f.28)</p>	<p>States shall refrain from returning a child in any manner whatsoever to the borders of a State where there is a real risk of underage recruitment, including recruitment not only as a combatant but also to provide sexual services for the military or where there is a real risk of direct or indirect participation in hostilities, either as a combatant or through carrying out other military duties</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.VII.c.84)</p>	<p>Return to the country of origin shall in principle only be arranged if such return is in the best interests of the child. Such a determination shall, inter alia, take into account: – The safety, security and other conditions, including socio-economic conditions, awaiting the child upon return, including through home study, where appropriate, conducted by social network organizations; – The availability of care arrangements for that particular child; – The views of the child expressed in exercise of his or her right to do so under article 12 and those of the caretakers; – The child’s level of integration in the host country and the duration of absence from the home country; – The child’s right “to preserve his or her identity, including nationality, name and family relations” (art. 8); – The “desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background” (art. 20)</p>

Objective 22: Establish mechanisms for the portability of social security entitlements and earned benefits

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2014), A/HRC/26/35 (para.87)	Grant migrants, including irregular and temporary migrants, access to social security benefits on the basis of equal treatment with nationals. States should consider entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits to migrant workers in this respect
Independent Expert on the enjoyment of all human rights by older persons (2018), A/HRC/39/50 (para.84)	Social protection has an important role in preventing exclusion from material and financial resources in old age. Non-contributory systems are the only means to ensure universal coverage and address gender imbalances. The Independent Expert recommends the development of participatory mechanisms of policy design and approaches to development that allow for the active engagement of older persons in decision-making. Such initiatives should move from simple consultative mechanisms to co-research or co-design with or by older persons and take due account of involving diverse groups of older persons, notably those who experience multiple forms of discrimination and are particularly vulnerable to high incidences of poverty and social exclusion, especially... migrants and refugees, among other groups
Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2018), A/HRC/39/52 (para.82(f))	Adopt and implement labour and social protection laws which extend to all domestic workers, including migrant domestic workers;
SR slavery (2018), A/73/139 (para.54(l))	Consideration should also be given to the development of cooperative, transnational social protection systems;

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

Objective 23: Strengthen international cooperation and global partnerships for safe, orderly and regular migration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2004), A/59/377 (para.63)	The Special Rapporteur proposes a form of migration management that is stronger from a human rights perspective and based on the shared responsibility of States to fulfil their obligations towards migrants
Independent Expert on human rights and international solidarity (2018), A/73/206 (para.50(b))	The expansion and celebration of pro-migrant solidarity: The positive expressions of human rights-based international solidarity by elements within civil society, cities and other local governments, States and regional organizations, and at the global level, should be reinforced, expanded, supported by others and celebrated more widely as imperative pro-human rights and pro-humanitarian acts that save the lives of thousands of global migrants; ensure that they are treated with the dignity to which they are entitled; and advance global integration, development and justice;

Guidance from Treaty Bodies

There is currently no explicit guidance from the Treaty Bodies on this objective

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