



Office of the United Nations High Commissioner for Human Rights

***COMPILATION OF FINDINGS AND OBSERVATIONS BY THE  
UNITED NATIONS HUMAN RIGHTS SYSTEM RELATING TO  
THE HUMAN RIGHTS OF MIGRANTS***

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## I. Introduction

1. Using the relevant provisions of the Universal Declaration of Human Rights as a framework, this compilation highlights the range of human rights concerns that are relevant to the issue of international migration. It includes references to reports by the special procedures mandate-holders of the Commission on Human Rights as well as concluding observations, views, and general comments issued by the seven human rights treaty bodies – the Human Rights Committee (CCPR), the Committee on Social, Economic and Cultural Rights (CESCR), the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Elimination of Discrimination Against Women (CEDAW), the Committee Against Torture (CAT), the Committee on the Rights of the Child (CRC), and the Committee on Migrant Workers (CMW).<sup>1</sup> While not exhaustive, this overview highlights some of the important trends in the interpretation of human rights issues that are of relevance to international migration and development.<sup>2</sup>

## II. Migration and Human Rights Generally

2. Human rights concerns arise in the context of both regular and irregular migration. With regard to irregular migration, the Special Rapporteur on the Human

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<sup>1</sup> The United Nations Human Rights normative framework is comprised of the Universal Declaration of Human Rights along with seven core human rights treaties, each with an independent monitoring body, including (1) the International Convention on the Elimination of All Forms of Racial Discrimination; (2) the International Covenant on Civil and Political Rights; (3) the International Covenant on Economic, Social and Cultural Rights; (4) the Convention on the Elimination of All Forms of Discrimination Against Women; (5) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (6) the Convention on the Rights of the Child; (7) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In addition, the Commission on Human Rights has, through its Special Procedures mechanisms, appointed mandate-holders who examine and report on country-specific human rights situations or on thematic areas of major human rights violations worldwide. Most relevant in the context of international migration are the mandates of the Special Rapporteur on the human rights of migrants (established in 1999) and the Special Rapporteur on trafficking in persons (established in 2004).

<sup>2</sup> Although flight from armed conflict or persecution falls within the general ambit of migration, the scope of this compilation will be limited to materials relevant to economic migrants, rather than asylum seekers and refugees.

Rights of Migrants (“Special Rapporteur”) has noted abuses such as smuggling and trafficking; violations of the right to life and personal integrity along borders; long working hours; salaries below minimum wages; hazardous working conditions; administrative detention; violations of the right to a fair hearing; inadequate conditions of detention and lack of protection for vulnerable persons such as unaccompanied children; and ill-treatment.<sup>3</sup> In the context of regular migration, the Special Rapporteur has noted problems including the deduction of wages in order to pay mediation fees to private recruitment agencies; changes made in host countries to provisions of contracts previously agreed upon; long working hours without overtime pay; payment of wages below those agreed upon at the moment of employment; illegally charged fees; refusal to pay salaries due; denial of paid vacation leave; restrictions on freedom of movement, including detention by employers; and complaints of sexual abuse.<sup>4</sup>

3. As a general matter, the Special Rapporteur has noted that although private actors commit many of these human rights abuses, States are not without responsibility:

The State is responsible for a failure to act in legislating and enforcing the law. Thus, the actions of smugglers and traffickers, of private employment agencies and of abusive employers are primarily attributable to private individuals or companies, though the State retains responsibility for lack of due diligence in enforcing the rights of migrants.<sup>5</sup>

Failure to monitor private recruitment agencies, for example, has contributed to the vulnerability of migrants to abuse.<sup>6</sup> The CCPR has also highlighted the responsibility of States to punish private actors responsible for violating migrants’ rights as well as the obligation to provide complaint and protection mechanisms for migrant workers.<sup>7</sup>

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<sup>3</sup> Report of The Special Rapporteur on The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 54.

<sup>4</sup> *Id.* at para. 56.

<sup>5</sup> *Id.* at para. 63.

<sup>6</sup> *Id.* at para. 59. The Special Rapporteur has also explained that subcontracting work as a means of avoiding labor responsibilities by the main employer make it particularly difficult for migrant workers to claim their rights in the face of abuse. See Report of The Special Rapporteur on The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 57.

<sup>7</sup> Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(18) (recommending that State party “punish those responsible for the exploitation of these migrant girls” and “develop appropriate complaint and

### **III. Right to Life and Prohibition of Torture or Cruel, Inhuman or Degrading Treatment or Punishment (Articles 3 & 5)**

#### **A. Conditions of Detention**

4. The Special Rapporteur has recommended that the Body of Principles for the Protection of All Persons under any Form of Detention and Imprisonment be applied to all migrants under administrative detention.<sup>8</sup> In particular, the Special Rapporteur has highlighted rights including:

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.<sup>9</sup>

States should also apply the Standard Minimum Rules for the Treatment of Prisoners to migrants under administrative detention, including:

providing for the separation of administrative detainees from criminal detainees; the separation of women from men; a separate bed with clean bedding for each detainee; at least one hour of outdoor exercise daily and the right to communicate with relatives and friends and to have access to newspapers, books and religious advisers.<sup>10</sup>

5. The Special Rapporteur has also recommended that States ensure “the existence of mechanisms allowing detained migrants to make a request or complaint

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protection mechanisms.”); Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(9) (welcoming “increase in penalties imposed on employers for non-compliance with” Foreign Workers Law).

<sup>8</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(k).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at para. 75(n).

regarding their treatment, in particular in case of physical and psychological abuse, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to judicial authorities.”<sup>11</sup>

6. The Special Rapporteur has dealt with health care in detention, recommending that States ensure “the presence in holding centres of a doctor with appropriate training in psychological treatments.”<sup>12</sup> Migrants should have access to interpreters “in their contacts with doctors or when requesting medical attention.”<sup>13</sup> Finally, “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.”<sup>14</sup>

7. States should provide training to authorities regarding conditions of detention, including:

on psychological aspects relating to detention, cultural sensitivity and human rights procedures, and ensuring that centres for the administrative detention of migrants are not run by private companies or staffed by private personnel unless they are adequately trained and the centres are subject to regular public supervision to ensure the application of international and national human rights law.<sup>15</sup>

During their consideration of State reports, CCPR, CAT and CERD have regularly raised the issue of the conditions of detention of immigrants.<sup>16</sup>

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<sup>11</sup> *Id.* at para. 75(l).

<sup>12</sup> *Id.* at para. 75(m).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(j).

<sup>16</sup> Japan, ICCPR, A/54/40 vol. I (1999) 36 at para. 161 (concerned about “[a]llegations of violence and sexual harassment of persons detained pending immigration procedures, including harsh conditions of detention, the use of handcuffs and detention in isolation rooms”); Venezuela, ICCPR, A/48/40 vol. I (1993) 61 at para. 309 (concerned about “conditions of detention in places of imprisonment”); United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICCPR, A/51/40 vol. I (1996) 13 at para. 63 (concerned that “many Vietnamese asylum seekers are subject to long-term detention and that many are held under deplorable living conditions that raise serious questions under articles 9 and 10 of the Covenant”); Republic of Moldova, CAT, A/58/44 (2003) 53 at para. 138(j) and (i) (concerned about “reports alleging that immigrants are apparently being detained in poor conditions in temporary holding facilities” and recommending that the State party “transfer the responsibility of detained persons in temporary holding facilities from the Ministry of the Interior to the Ministry of Justice”); Lithuania, CAT, A/59/44 (2003) 52 at paras. 109(d) and 110(g) (concerned about “the conditions in the facilities where foreigners awaiting expulsion are kept and the absence of data on the age, sex and country of destination of expelled foreigners or stateless persons, specifically those at the Foreigners Registration Centre” and urging the State party to “intensify efforts to ensure that holding facilities for foreigners meet international standards”); Hungary, CERD, A/57/18 (2002) 63 at para. 380 (concerned about “the

### ***B. Expulsion***

8. The CAT has noted shortcomings in the suspension of expulsion orders pending appeal – a measure essential for ensuring that individuals are not sent to States where they are likely to be subjected to torture.<sup>17</sup> The CCPR has expressed concern where excessive force has been used during deportation,<sup>18</sup> particularly in the case of children.<sup>19</sup>

### ***C. Oversight by Third Parties***

9. The Special Rapporteur has recommended that “representatives of UNHCR, ICRC, NGOs and churches should be allowed access to the place of custody.”<sup>20</sup>

## **IV. Equal Protection of the Law without Discrimination (Article 7)**

10. The CCPR has commented that generally “each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens.”<sup>21</sup> CERD similarly has clarified that “Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons.”<sup>22</sup> The Special Rapporteur has stressed the role of discrimination as a key factor in many human rights abuses that migrants face, noting that “[t]he only way to halt the deterioration in

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prevailing conditions in refugee shelters and the conditions of detention of undocumented immigrants” and while “noting the efforts of the State party in this respect” strongly encouraging “the Hungarian authorities to further improve the existing facilities so that they meet international standards”).

<sup>17</sup> Belgium, CAT, A/58/44 (2003) 49 at para. 129(e) (concerned about “[t]he non-suspensive nature of appeals filed with the Council of State by persons in respect of whom an expulsion order has been issued” and “the administration’s delay in implementing ministerial orders issued in 2002 and giving suspensive effect to emergency remedies applied for by rejected asylum-seekers”); Cameroon, CAT, A/59/44 (2003) 23 at para. 41 (noting with concern that “[a]ppeals to the competent administrative court against deportation orders are not suspensive, and this may lead to a violation of article 3 of the Convention” and recommending that the State party “[a]llow appeals by foreigners against decisions by the administrative court to confirm deportation orders to stay execution”).

<sup>18</sup> Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(13) (deeply concerned that “in the course of the deportation of aliens, there have been instances of degrading treatment and use of excessive force, resulting on some occasions in the death of the deportee” and recommending that the State party “ensure that all cases of forcible deportation are carried out in a manner which is compatible with articles 6 and 7 of the Covenant” and that “restraint methods do not affect the life and physical integrity of the persons concerned”); Belgium, CAT, A/58/44 (2003) 49 at para. 129 (concerned about “[c]ases of the excessive use of force during public demonstrations and expulsions of foreigners”).

<sup>19</sup> Spain, CAT, A/58/44 (2002) 29 at para 63 (concerned about “cases of ill-treatment during enforced expulsion from the country, particularly in the case of unaccompanied minors”).

<sup>20</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(i).

<sup>21</sup> CCPR General Comment 15, HRI/GEN/1/Rev.7, at para. 1 (May 12, 2004).

<sup>22</sup> CERD General Recommendation 30, HRI/GEN/1/Rev.7/Add.1, at para. 3 (May 4, 2005).

immigrants' situation, particularly that of illegal immigrants, is to recognize the human rights of this group and apply the principle of non-discrimination."<sup>23</sup>

### **A. Non-State Actors**

11. The CERD has encouraged States parties to take measures against acts of racism by non-state actors.<sup>24</sup>

### **B. Reciprocity**

12. The CCPR has concluded that requiring reciprocity as a condition for extending human rights to aliens from a particular country violates the International Covenant on Civil and Political Rights (ICCPR).<sup>25</sup>

### **C. Law Enforcement and Administration of Justice**

13. CERD and CCPR have expressed concern regarding discrimination and mistreatment by police and other civil servants.<sup>26</sup> CERD has encouraged measures to eliminate discrimination within the justice system.<sup>27</sup>

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<sup>23</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2005/85, at para. 75. For a general overview of the human rights of non-citizens *see also* Final report of the Special Rapporteur, Mr. David Weissbrodt, E/CN.4/Sub.2/2003/23 (May 26, 2003).

<sup>24</sup> Russian Federation, CERD, A/58/18 (2003) 38 at para. 195 (concerned about "the incidence of violent racist attacks against ethnic minorities by, among others, skinheads and neo-Nazis" and recommending that "the State party strengthen its efforts to prevent racist violence and protect members of ethnic minorities and foreigners, including refugees and asylum-seekers"); Denmark, CERD, A/51/18 (1996) 17 at para. 70 (noting with concern that "only three convictions have been registered in the past six years against members of neo-Nazi groups" and concerned about "the recent granting of licenses to such groups to operate a radio station and a telephone number to which people allegedly can call to hear a recorded message about why migrants and refugees should be deported"); Spain, CERD, A/55/18 (2000) 34 at para. 164 (noting with concern that "remarkably few cases before national courts have been identified as incidents of racial discrimination, despite a recognized general increase in juvenile violence, including attacks on foreigners by extremist groups, neo-Nazi movements and gangs").

<sup>25</sup> Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at para. 77(20) (considering that "the provisions in the State party's legislation providing for the principle of reciprocity in guaranteeing Covenant rights to aliens are contrary to articles 2 and 26 of the Covenant" and concerned that "according to article 61 of the Constitution, the right to immediate access to legal representation is guaranteed only to citizens.").

<sup>26</sup> Austria, CERD, A/57/18 (2002) 15 at para. 32 (concerned about "allegations of racist incidents involving police officers and other State employees" and encouraging the State party to "continue to monitor all tendencies which may give rise to racial or ethnic segregation and to endeavour to combat the negative consequences of such tendencies" and recommending that the State party "strengthen existing educational measures for civil servants who deal with issues involving foreigners" and "recruit more members of minority groups into the public administration, in particular law enforcement"); Belgium, CERD, A/57/18 (2002) 17 at para. 53 (concerned about "several cases of racist incidents in police stations involving law enforcement officials, where the victims were immigrants and asylum seekers" and "reports that children belonging to ethnic minority groups have experienced verbal violence" and recommending that the State party "take all necessary measures to prosecute racially motivated acts of violence by law enforcement officials and to prevent such verbal offences against members of minority groups, and continue its efforts to promote intercultural tolerance, understanding and respect"); Switzerland, CERD, A/57/18 (2002) 46 at para. 253 (concerned about "allegations of police abuse and excessive use of force against persons of foreign origin during arrest or in the course

### **D. Sentencing**

14. CERD has expressed concern at harsher punishments for crimes committed by migrants than for those committed by nationals.<sup>28</sup>

### **E. Employment**

15. With regard to the employment sector, treaty bodies have expressed concern about discrimination against migrant workers with respect to employment opportunities<sup>29</sup> and labor protections.<sup>30</sup>

### **F. Immigration**

16. CERD has recommended that States “[e]nsure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin.”<sup>31</sup> CERD and CCPR have also discouraged discrimination related to naturalization in particular.<sup>32</sup>

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of deportations” and noting that “many cantons do not have independent mechanisms for investigation of complaints regarding violence and abuse by the police, and that sanctions against responsible officers have been rare” and recommending that the State party “ensure that independent bodies with authority to investigate complaints against police officers are established in all cantons” and “recruit members of minority groups into the police and to provide sensitization and training of police officers on issues of racial discrimination”); Hungary, CERD, A/57/18 (2002) 63 at para. 379 (recommending that the State party “intensify its efforts to combat ill treatment of Roma and non-citizens by the police, especially through the strict application of relevant legislation and regulations providing for sanctions, adequate training and instructions to be given to law enforcement bodies and the sensitization of the judiciary” and “recruiting more members of minority groups, especially of the Roma minority, to serve in law enforcement bodies and strengthening the existing legal aid system for alleged victims, as well as empowering parliamentary commissioners to investigate allegations of ill-treatment and discrimination by the police”); Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at para. 74(13) (concerned about “allegations of police harassment, particularly of the Roma minority and aliens” and recommending that the state institute “effective measures to eradicate all forms of police harassment, and set up an independent authority to investigate complaints against the police” and “take steps against those held responsible for such acts of harassment”).

<sup>27</sup> Hungary, CERD, A/57/18 (2002) 63 at para. 371 (noting “the positive elements incorporated in Law Decree No.11 of 1997 modernizing certain provisions of the Rules on the Enforcement of Punishment, with a view to prohibiting discrimination among convicted persons and ensuring basic rights of foreign convicted persons, and in Act CX of 1999 amending the Code of Civil Procedure so as to reinforce the principle that no one shall be discriminated against because of lack of knowledge of the Hungarian language.”).

<sup>28</sup> Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 218 (concerned that “a disproportionate number of foreigners are facing the death penalty”).

<sup>29</sup> Denmark, CERD, A/57/18, at para. 120 (concerned about “the disproportionately high level of unemployment among foreigners” and recommending that “[a]lthough it is not obliged to provide work permits to foreign residents, it should guarantee that foreigners who are entitled to a work permit are not discriminated against in their access to employment”).

<sup>30</sup> Republic of Korea, CERD, A/58/18 (2003) 83 at para. 489 (welcoming legislation “which provides foreign workers with the same labour protection as domestic workers”); Luxembourg, ICESCR, E/2004/22 (2003) 24 at para. 72 (noting with appreciation amendment “by which foreign workers who are not citizens of the European Union but have a one-year work permit are allowed to serve on joint enterprise committees.”).

<sup>31</sup> CERD, General Recommendation 30, HRI/GEN/1/Rev.7/Add.1, at para 9 (May 4, 2005). *See also* Hungary, CERD, A/57/18 (2002) 63 at para. 372 (welcoming legislation “abrogating geographical

## **G. Counter-Terrorism**

17. CERD has recommended that States “[e]nsure 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.”<sup>33</sup> The Special Rapporteur has noted with concern that administrative detention of undocumented immigrants without the ability to challenge their detention in court “has become widespread as States have applied special legislation to combat terrorism which restricts or suspends the procedural guarantees that every detainee should enjoy.”<sup>34</sup> It is in part because of these policies that the “perception of immigration as a matter of security continues to gain ground, eclipsing all other aspects of the issue, including human rights.”<sup>35</sup>

18. The CCPR and CERD have expressed concern about recent trends of racial profiling and violence against minorities caused by an atmosphere of suspicion in the aftermath of the September 11 attacks and have encouraged States parties to combat the potentially negative consequences that counter-terrorism measures may have on foreigners.<sup>36</sup> The CERD has also expressed concern about indefinite detention related to national security.<sup>37</sup>

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restrictions concerning asylum-seekers”); Canada, CERD, A/57/18 (2002) 56 at para. 336 (noting with concern that current immigration policies, in particular the present level of ‘right of landing fee’, may have discriminatory effects on persons coming from poorer countries” and that most foreigners who are removed from Canada are Africans or of African descent” and recommending that “greater attention be given to the possible discriminatory effect of Canadian immigration policies”); United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at para. 535 (concerned about “the application of section 19 D of the Race Relations Amendment Act of 2000, which makes it lawful for immigration officers to ‘discriminate’ on the basis of nationality or ethnic origin provided that it is authorized by a minister” and recommending that “the State party consider re-formulating or repealing section 19 D of the Race Relations Amendment Act in order to ensure full compliance with the Convention”).

<sup>32</sup> Switzerland, CERD, A/53/18 (1998) 28 at para. 57 (expressing disquiet at “the three-circle-model immigration policy, which classifies foreigners on the basis of their national origin” and concerned about “[t]he extensive system of police control of foreigners as well as the naturalization policies and procedures, which are deemed too protracted and selective”); Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 483-84 (concerned about “[t]he naturalization of Muslim applicants exclusively” and recommending that “[t]he laws on naturalization and nationality should be amended to ensure that their application does not entail discrimination on any of the grounds numerated in article 26 of the Covenant”).

<sup>33</sup> CERD General Recommendation 30, HRI/GEN/1/Rev.7/Add.1, at para. 10 (May 4, 2005).

<sup>34</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2005/85, at para. 29.

<sup>35</sup> *Id.*

<sup>36</sup> Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(12) (concerned about “the risk of violations of fundamental rights of persons of foreign extraction (freedom of expression and privacy), in particular through more frequent recourse to telephone tapping and because of an atmosphere of latent suspicion towards them (articles 13, 17 and 19 of the Covenant)” and requesting State party to “undertake an educational campaign through the media to protect persons of foreign extraction, in particular Arabs and Muslims, from stereotypes associating them with terrorism, extremism and fanaticism”); Canada, CERD, A/57/18 (2002) 56, at para 338 (noting with concern that “in the aftermath of the events of 11

## V. Effective Remedy (Article 8)

19. The CMW has clarified that migrants in an irregular situation are entitled to channels allowing them to “lodge complaints for violations of their rights without retaliation against them on the ground that they may be in an irregular situation.”<sup>38</sup>

## VI. Arbitrary Arrest, Detention or Exile (Article 9)

### A. Administrative Detention

20. The Special Rapporteur has indicated that most human rights violations against migrant workers occur in the context of administrative detention<sup>39</sup> and that “governments should consider the possibility of progressively abolishing all forms of administrative detention.”<sup>40</sup> In addition to being violations of human rights governing detention as such, the lack of oversight, excessive duration, and poor conditions of administrative detention may also amount to discrimination against migrants.<sup>41</sup>

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September 2001, Muslims and Arabs have suffered from increased racial hatred, violence and discrimination” and welcoming “the statement of the Prime Minister in the Ottawa Central Mosque condemning any acts of intolerance and hatred against Muslims, as well as the reinforcement of Canadian legislation to address hate speech and violence” and requesting “the State party to ensure that the application of the Anti-terrorism Act does not lead to negative consequences for ethnic and religious groups, migrants, asylum seekers and refugees, in particular as a result of racial profiling”); Norway, CERD, A/58/18 (2003) 79 at para. 473 (taking note of “the amendments to the Aliens Act, which include provisions for the expulsion of persons charged with terrorist acts or where there are serious reasons to suspect a person of participating in such an act” and “acknowledging the State party’s national security concerns,” but recommending “that the State party seek to balance those concerns with its human rights obligations. In this regard, it draws the State party’s attention to the Committee’s statement of 8 March 2002 in which it underlines the obligation of States to “ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin”).

<sup>37</sup> United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at para. 536 (deeply concerned about “provisions of the Anti-Terrorism Crime and Security Act which provide for the indefinite detention without charge or trial, pending deportation, of non-nationals of the United Kingdom who are suspected of terrorism-related activities”).

<sup>38</sup> “Respecting the Rights of All Migrant Workers as a Tool to Enhance Development,” A Contribution by the Committee on Migrant Workers to the General Assembly’s High Level Dialogue on Migration and Development, at para. 15(f) (2006).

<sup>39</sup> “By far the most frequent abuses against this group are discriminatory, xenophobic and racial practices that occur during the administrative detention of undocumented migrants and through various ways that migrant workers are exploited.” Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2005/85, at para. 76.

<sup>40</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 74.

<sup>41</sup> The Special Rapporteur has said that the administrative detention of migrants violates the “principle of non-discrimination if these individuals are confined in detention centres without being able to challenge the legality of their detention in court....they are discriminated against in the exercise of their basic right to freedom and legal security and are arbitrarily denied the right to effective recourse against

## **B. Procedural Safeguards**

21. The Special Rapporteur has urged states to ensure the establishment of procedural safeguards relating to the deprivation of liberty, stating that:

deprivation of liberty should be allowed only on the basis of criteria established by law. A decision to detain should only be taken under clear legal authority, and all migrants deprived of their liberty, whether under administrative proceedings or in cases of preventive detention for reasons of public security, should 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.<sup>42</sup>

The Special Rapporteur has also highlighted the importance of translation, consular notification, and awareness of the law and facts surrounding their case, recommending States to ensure 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.<sup>43</sup>

The Special Rapporteur has also encouraged State facilitation of migrants' exercise of their rights 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,

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their detention by the police.” Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2005/85, at para. 29.

<sup>42</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(c).

<sup>43</sup> *Id.* at para. 75(d).

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.<sup>44</sup>

### **C. Alternatives to Detention**

22. The Special Rapporteur has encouraged states to seek alternatives to custodial measures and detention of migrants by “providing for such measures in law and ensuring that the prescribed conditions are not discriminatory against non-nationals.”<sup>45</sup> States should also keep official statistics on the “percentage of migrants deprived of their liberty out of the total number subject to administrative detention.”<sup>46</sup>

23. The CCPR has also recommended that State parties resort to means other than detention when dealing with migration.<sup>47</sup>

### **D. Place of Detention**

24. The Special Rapporteur has stated that States should ensure 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.”<sup>48</sup>

### **E. Limits on Duration of Detention**

25. The Special Rapporteur has recommended that States ensure “that the law sets a limit on detention pending deportation and that under no circumstance is detention indefinite.”<sup>49</sup> States should also “consider entering into bilateral and multilateral agreements to speed up documentation/deportation procedures and thereby reduce the length of detention.”<sup>50</sup> Detentions should be subject to judicial review and “reviewed periodically on the basis of clear legislative criteria.”<sup>51</sup> The detention of migrants

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<sup>44</sup> *Id.* at para. 75(e).

<sup>45</sup> *Id.* at para. 75(f).

<sup>46</sup> *Id.*

<sup>47</sup> Australia, ICCPR, A/55/40 vol. I (2000) 71 at para. 427 (recommending that the State party “reconsider its policy of mandatory detention of “unlawful non-citizens” with a view to instituting alternative mechanisms of maintaining an orderly immigration process”).

<sup>48</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(i).

<sup>49</sup> *Id.* at para. 75(g).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

“should end when a deportation order cannot be executed for other reasons that are not the fault of the migrant.”<sup>52</sup>

26. The CCPR has also held that “in order to avoid a characterization of arbitrariness, detention should not continue beyond the period for which the State party can provide appropriate justification.”<sup>53</sup>

27. The CAT has also raised concerns about the duration of administrative detentions and has recommended that States “[i]ntroduce legally enforceable time limits for the detention of illegal immigrants and rejected asylum-seekers who are under expulsion orders.”<sup>54</sup>

### **F. Expulsion**

28. The CAT has raised the issue of expulsions to countries with which individuals have few ties<sup>55</sup> and has encouraged safeguards relating to legal representation in proceedings relating to migration.<sup>56</sup>

<sup>52</sup> *Id.* See also *Karker v. France*, CCPR/C/70/D/833/1998 (2000) (holding that where expulsion order of refugee suspected of supporting a terrorist movement could not be enforced, compulsory residency in limited parts of the country along with requirements that he periodically report to the police were justified); *Celepli v. Sweden*, CCPR/C/51/D/456/1991 (1993) (same).

<sup>53</sup> *C. v. Australia*, CCPR/C/76/D/900/1999, at para. 8.2 (2002) (citing *A v. Australia*, CCPR/C/59/D/560/1993, at para. 9.4 (1997)). See also *France*, CERD, A/49/18 (1994) 20 at para. 144 (concerned about “preventive detention of foreigners at points of entry for excessively long periods”); *United States of America*, ICCPR, A/50/40 vol. I (1995) 52 at paras. 283 (concerned that “excludable aliens are dealt with by lower standards of due process than other aliens and, in particular, that those who cannot be deported or extradited may be held in detention indefinitely”); *Japan*, ICCPR, A/54/40 vol. I (1999) 36 at para. 161 (concerned that “[p]ersons held in immigration detention centres may remain there for periods of up to six months and, in some cases, even up to two years”).

<sup>54</sup> *Estonia*, CAT, A/58/44 (2002) 26 at para. 49 and 50 (concerned that “illegal immigrants and rejected asylum-seekers may be detained in expulsion centres until deported” and that “such persons may be subjected to long periods of detention when expulsion is not enforceable”). See also *Belgium*, CAT, A/58/44 (2003) 49 at paras. 129(f) and 131(e) (concerned about “[t]he possibility of extending the detention of foreigners for as long as they do not cooperate in their repatriation, the possibility of placing unaccompanied minors in detention for lengthy periods, and information that asylum-seekers who have been formally released have been transferred to the transit area of the national airport, without assistance and without being allowed to leave” and recommending that the State party “[s]et a time limit for the detention of foreigners against whom an expulsion order is issued, draft specific legislation on unaccompanied minors that takes account of the best interests of the child, and monitor asylum-seekers who have been released”); *Latvia*, CAT, A/59/44 (2003) 48 at para. 98(a)(3) (welcoming “[t]he entry into force of the new Immigration Law in May 2003 which, *inter alia*, provides a maximum length of detention for foreigners arrested in violation of the Law and the right of an arrested foreigner to submit a complaint to a prosecutor, to contact the consulate and to have access to legal aid”).

<sup>55</sup> *Sweden*, CAT, A/57/44 (2002) 51 at para. 105 (welcoming “the setting up of a special commission to review legislation and case law relating to the application of decisions concerning expulsion from Swedish territory, especially in relation to allegations that individuals have been expelled to countries with which they have no significant ties” and recommending that the State party “ensure that if foreigners are sent back, they are expelled to a country of their choice, or a country with which they have real ties and where there is no substantial ground for believing that they would be in danger of being subjected to torture”); *Belgium*, CAT, A/58/44 (2003) 49 at para. 129(d) (concerned that “foreigners who have been resident in Belgium for a long time but who have disturbed public order or

## VII. Freedom of Movement and the Right to Leave Any Country and Return to One's Country (Article 13)

29. The CCPR has indicated that the right to return to one's own country may be relevant to migrants with strong ties to their host country, stating that::

The scope of "his own country" is broader than the concept "country of his nationality". It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien. This would be the case, for example, of nationals of a country who have there been stripped of their nationality in violation of international law, and of individuals whose country of nationality has been incorporated in or transferred to another national entity, whose nationality is being denied them. The language of article 12, paragraph 4, moreover, permits a broader interpretation that might embrace other categories of long-term residents, including but not limited to stateless persons arbitrarily deprived of the right to acquire the nationality of the country of such residence. Since other factors may in certain circumstances result in the establishment of close and enduring connections between a person and a country, States parties should include in their reports information on the rights of permanent residents to return to their country of residence.<sup>57</sup>

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endangered national security may be expelled from the territory, even though most of their ties and attachments are in Belgium”).

<sup>56</sup> Spain, CAT, A/58/44 (2002) 29 at para. 58(d) (noting with satisfaction “the new Instruction from the Secretary of State for Immigration on the treatment of foreign stowaways, replacing the Instruction of 17 November 1998 on the same subject” which “establishes a series of safeguards concerning the right to official legal representation in administrative or judicial proceedings which may lead to the acceptance of possible asylum applications, refusal of entry or expulsion from Spanish territory”).

<sup>57</sup> CCPR General Comment 27, HRI/GEN/1/Rev.7, at para. 20 (May 12, 2004). *See also Canepa v. Canada*, CCPR/C/59/D/558/1993, at para. 11.3 (1997) (citing *Stewart v. Canada*, CCPR/C/58/D/538/1993, at para. 12.2 - 12.9 (1996)).

## VIII. Family Rights (Article 12 & 16)

### A. Marriage Rights

30. The CERD has criticized obstacles to marriage between nationals and non-nationals and encouraged their removal.<sup>58</sup>

### B. Children of Migrants and Enjoyment of Citizenship Rights

31. Treaty bodies have also encouraged the removal of disadvantages experienced by children of mixed national and foreign parents.<sup>59</sup>

### C. Family Reunification

32. The CERD encouraged the eliminations of barriers, such as quotas, to family unity.<sup>60</sup> CEDAW has encouraged equal spousal unification rights for foreign men and

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<sup>58</sup> Qatar, CERD, A/57/18 (2002) 38 at paras. 195 and 196 (concerned that “marriage between nationals of Qatar and foreigners is subject to prior approval by the Minister of the Interior” and that “the State party does not appear to guarantee freedom of marriage between nationals and non-nationals unless the latter are nationals of States members of the Gulf Cooperation Council”); Tonga, CERD, A/55/18 (2000) 37 at para. 182 (concerned that “the right to marriage between a Tongan and a non-Tongan is conditioned by the written consent of the Principal Immigration Officer”); Cyprus, CERD, A/56/18 (2001) 48 at para. 263 (satisfied with “the amendment of the 1967 Citizenship Law which eradicates discrimination in marriage to foreigners. Through this amendment, the right of an alien spouse to acquire the citizenship of the Cypriot spouse is now recognized for both spouses, as is the equal right of both spouses to transmit citizenship to their children.”).

<sup>59</sup> Egypt, CERD, A/56/18 (2001) 50 at para. 288 (concerned about “nationality law, which prevents an Egyptian mother married to a foreigner from passing on her nationality to her children” and that “children born to Egyptian mothers and foreign fathers are faced with discrimination in the field of education” and noting the “promise of the State party to revise the nationality law, which discriminates against children born to Egyptian women married to non-nationals, so as to bring it into line with the provisions of the Convention”); Jordan, ICESCR, E/2001/22 (2000) 49 at para. 234 (concerned about “restrictions on the right of Jordanian women married to foreign men to pass on their nationality to their children”); Guinea, CEDAW, A/56/38 part II (2001) 55 at para. 125 (recommending that “[f]emale and male spouses who marry foreigners should be treated equally in regulations governing nationality” and that the State party “ensure that the concept of *jus sanguinis* is applied to ensure that children of mixed parentage born outside the country can acquire nationality through their Guinean mother”).

<sup>60</sup> Estonia, CERD, A/57/18 (2002) 60 at para. 351 (noting with satisfaction that “the immigration quota no longer applies to the spouses of both Estonian and non-Estonian citizens residing in Estonia or to children under the age of 15”); Denmark, CERD, A/57/18 (2002) 27 at para. 119 (concerned about “the impact of the recent (May 2000) amendments to the Aliens Act, particularly as they abolish the statutory right to reunification of spouses under the age of 25 years” and encouraging the State party “to take effective measures to ensure that the right to family life is guaranteed to all persons in Denmark without distinction”).

women.<sup>61</sup> The CCPR has encouraged measures to protect family life where an accessory penalty of expulsion may have a detrimental effect.<sup>62</sup>

#### **D. Separation from Family**

33. The CCPR has held that “separation of a person from his family by means of his expulsion could be regarded as an arbitrary interference with the family and as a violation of article 17 if in the circumstances of the case the separation of the author from his family and its effects on him were disproportionate to the objectives of removal.”<sup>63</sup>

### **IX. Political Participation (Article 21)**

34. The CERD has welcomed decisions allowing foreign permanent residents the right to hold certain political offices.<sup>64</sup> It has also encouraged states to allow non-nationals to participate in certain elections where they are long-time permanent residents.<sup>65</sup> The CMW has encouraged States of origin to provide the right to vote in elections to their nationals abroad.<sup>66</sup> The CCPR has encouraged the repeal of legislation aimed at limiting the rights of foreigners to political expression.<sup>67</sup>

<sup>61</sup> CEDAW General Recommendation 21, HRI/GEN/1/Rev.7 (May 12, 2004) at para. 10 (“Migrant women who live and work temporarily in another country should be permitted the same rights as men to have their spouses, partners and children join them.”).

<sup>62</sup> Portugal, ICCPR, A/58/40 vol. I (2003) 56 at para. 83(17) (noting that “an accessory penalty of expulsion may not be imposed on a resident alien when the person concerned was born and lives in Portugal, or exercises parental authority over under-age children residing in Portugal, or has been in Portugal since he/she was less than 10 years old” but concerned that “those limitations may not protect the family life in all cases and that non-resident aliens do not benefit from such guarantees (arts. 17 and 26)” and recommending that the State party “amend its legislation in order to ensure that the family life of resident and non-resident aliens sentenced to an accessory penalty of expulsion is fully protected”).

<sup>63</sup> *Canepa v. Canada*, CCPR/C/59/D/558/1993 (1997).

<sup>64</sup> Lithuania, CERD, A/57/18 (2002) 35 at para. 167 (welcoming “the initiative taken by the Parliament (*Seimas*) to amend article 119 of the Constitution of Lithuania and to grant to foreign permanent residents the right to elect and to be elected to local self-government bodies (municipal councils)”).

<sup>65</sup> Latvia, CERD, A/58/18 (2003) 75 at para. 448 (noting that “most non-citizens have been residing in Latvia for many years, if not for their whole lives” and strongly recommending that the State party “consider facilitating the integration process by making it possible for all non-citizens who are long-time permanent residents to participate in local elections”).

<sup>66</sup> “Respecting the Rights of All Migrant Workers as a Tool to Enhance Development,” A Contribution by the Committee on Migrant Workers to the General Assembly’s High Level Dialogue on Migration and Development, at para. 19(a) (2006).

<sup>67</sup> Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(4) (welcoming “the repeal in March 1998, following its previous recommendations (see CCPR/C/79/Add.70, para. 28), of the Federal Decree on Political Speeches by Foreigners, which restricted the freedom of expression of foreigners without a permanent residence permit”); Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(17) (taking into

## X. Social Security (Article 22)

35. Treaty bodies have also encouraged States parties to provide migrants with social security benefits on an equal basis with nationals.<sup>68</sup>

## XI. Free Choice of Employment (Article 23)

36. The Special Rapporteur has noted in particular the problems of “confiscation of migrants’ identity documents by employers, sometimes with the apparent complicity of government officials who confiscate such documents at the time of entry and hand them over to employers, as well as the existence of ‘sponsorship’ systems where migrants are not allowed to change employers so that the legality of their stay in a specific country depends entirely on these employers.”<sup>69</sup> Treaty bodies have encouraged countries to limit this practice.<sup>70</sup>

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account “the considerable number of non-citizens residing in the State party,” and concerned about “legislation prohibiting non-citizens from being members of political parties”).

<sup>68</sup> Canada, CEDAW, A/58/38 Part I (2003) 53 at para. 365 (noting “improvement regarding the de facto situation of live-in caregivers through formal employment contracts” but concerned that they “do not receive adequate social security and having to live in the homes of their employers may subject them to exploitation and abuse” and urging the State party to “take further measures to improve the current live-in caregiver programme by reconsidering the live-in requirement, ensuring adequate social security protection and accelerating the process by which such domestic workers may receive permanent residency”); Uzbekistan, CRC, CRC/C/111 (2001) 117 at para. 549-50 (concerned that “the guarantee of non-discrimination in article 2 of the Convention may be jeopardized, for example by social security laws which effectively deprive non-citizens of rights to social security benefits and impose fees which may inhibit access to health and education services” and recommending that the State party “[e]nsure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2” and “prioritize and target social services for children belonging to the most vulnerable groups”); Australia, ICESCR, E/2001/22 (2000) 66 at para. 397 (calling upon State party to “ensure that the two-year waiting period for the receipt of social security assistance by new immigrants does not infringe upon their right to an adequate standard of living”); Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at para. 288 (concerned that the “guarantee of non-discrimination in article 2 of the Convention may be jeopardized, for example by the 1998 social security law which effectively deprives all non-citizens of rights to social security benefits, except for education fee discounts for families with many children and/or of low income; and the practice whereby non-citizens are subject to higher fees demanded by health practitioners”).

<sup>69</sup> Report of The Special Rapporteur On The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 59.

<sup>70</sup> “Respecting the Rights of All Migrant Workers as a Tool to Enhance Development,” A Contribution by the Committee on Migrant Workers to the General Assembly’s High Level Dialogue on Migration and Development, at para. 15(b) (2006) (“States should ensure that their legislation prohibits the retention of identity documents by employers or recruitment agents; prohibits all systems of forced sponsorship of migrants, which are designed to ensure control over the migrant throughout the period of residence; and allows all migrant workers, including undocumented migrant workers, to join trade unions”); Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 206 (noting with satisfaction that “measures have been taken to put an end to the practice of employers retaining the passports of their foreign employees, in particular domestic workers”); Israel, ICESCR, E/2004/22 (2003) 42 at para. 251(welcoming allowing foreign workers to change employers for the legal duration of their stay).

## **XII. Right to Form and Join Trade Unions (Article 23)**

37. CERD has recommended that States recognize that “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.”<sup>71</sup> Treaty bodies have expressed concern where non-nationals are not allowed to participate in trade union activity.<sup>72</sup> The CCPR has also held that a state cannot discriminate on nationality only when determining which non-nationals may participate in work-councils.<sup>73</sup>

## **XIII. Rest and Leisure (Article 24)**

38. The CESCR has expressed concern where limitations are not placed on hours of work, particularly with respect to domestic workers.<sup>74</sup>

## **XIV. Health and Education (Articles 25 & 26)**

39. CERD and CESCR have encouraged the inclusion of migrants in national health care systems,<sup>75</sup> and the CESCR has expressed concern where migrants have not

<sup>71</sup> CERD General Recommendation 30, HRI/GEN/1/Rev.7/Add.1, at para. 35 (May 4, 2005).

<sup>72</sup> Senegal, ICCPR, A/53/40 vol. I (1998) 13 at para. 65 (concerned about “the fact that foreign workers are barred from holding official positions in trade unions, and that trade unions may be dissolved by the executive” and recommending that State party “take all necessary measures to permit foreign workers to hold official positions in trade unions, and should provide guarantees and legal redress to trade unions, in accordance with article 22 of the Covenant, against dissolution by administrative measures”); Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at para. 450 (concerned about “situation of Haitian workers” and that “[f]reedom of association is not guaranteed and trade unionists have been persecuted”); Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at para. 491 (concerned that “the right of foreign and domestic workers to form and join trade unions and to take part in their activities is restricted *de facto*”); Costa Rica, ICESCR, E/1991/23 (1990) 41 at para. 194 (stating that “restrictions placed on the participation of foreigners in trade unions are not in conformity with article 8 of the Covenant”); Panama, ICESCR, E/1992/23 (1991) 24 at para. 138 (same).

<sup>73</sup> *Karakurt v. Austria*, CCPR/C/74/D/965/2000 (2002) (holding that Austrian law limiting participation in work-councils to non-nationals from European Economic Area states solely on the basis of their nationality was not reasonable and violated ICCPR Art. 26).

<sup>74</sup> Cyprus, ICESCR, E/1999/22 (1998) 50 at para. 285 (stating that “[d]omestic workers enjoy little protection against being forced to work unduly long hours”); Australia, ICESCR, E/2001/22 (2000) 66 at para. 383 (stating that “[h]omeworkers, who are predominantly women, do not enjoy any form of social protection and are paid substantially lower wages than the minimum wage, which compels them to work excessively long hours in order to earn enough to ensure the daily subsistence of their families”).

<sup>75</sup> Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 206 (welcoming “initiative to include non-Saudis in a health insurance system”); Israel, ICESCR, E/2004/22 (2003) 42 at para. 251 (welcoming regulations “regarding the system of compulsory health insurance for these foreign workers”).

had access to pharmaceutical drugs.<sup>76</sup> CERD has encouraged equal access to education<sup>77</sup> and discouraged segregated schooling except in exceptional circumstances.<sup>78</sup> It has treated positively education programmes for children of migrant workers designed in the country of origin<sup>79</sup> while encouraging the funding of mother-tongue language courses and courses on the culture of countries of origin.<sup>80</sup>

## **XV. Vulnerable Persons**

### **A. Women**

40. Treaty bodies have frequently expressed concern about discrimination and violence against women migrant workers,<sup>81</sup> and the Special Rapporteur has noted the cumulative effect of multiple grounds for discrimination against women:

[T]he disadvantages or deprivations that migrant women experience because of gender cannot be

<sup>76</sup> United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at para. 224 (concerned about lack of availability of and access to anti-retroviral medication for migrant workers and AIDS orphans in Caribbean territories).

<sup>77</sup> Republic of Korea, CERD, A/58/18 (2003) 83 at para. 489 (welcoming amendment to education regulations that “allows foreign children of compulsory school age, including those of undocumented migrant workers, equal access to local schools”).

<sup>78</sup> Switzerland, CERD, A/57/18 (2002) 46 at para. 252 (welcoming “the position of the Federal Council according to which segregated schooling would be contrary to the Federal Constitution, the Convention on the Rights of the Child and the International Convention on the Elimination of all forms of Racial Discrimination” but expressing concern about “recent moves towards the establishment of separate classes for foreign pupils in some cantons. It is the view of the Committee that segregated schooling may only in exceptional circumstances be considered as being in conformity with article 2 in conjunction with article 5 (e)(v) of the Convention.”)

<sup>79</sup> Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 206 (noting with satisfaction “the high number of schools that have been authorized to offer programmes for the education of children of migrant workers that have been designed in their country of origin”).

<sup>80</sup> Liechtenstein, CERD, A/57/18 (2002) 33 at para. 152 (noting that the State party “provides facilities to foreign associations organizing mother-tongue language courses and courses on the culture of countries of origin, but that it does not provide financial support for teachers or educational material” and recommending that the State party “consider providing funding for associations that organize such courses”).

<sup>81</sup> New Zealand, CEDAW, A/58/38 part II (2003) 138 at para. 425 (concerned about “continuing discrimination suffered by immigrant, refugee and minority women and girls, based on their ethnic background, particularly with respect to education, health employment, violence against women, and in regard to permanent residence status”); Norway, CEDAW, A/58/38 part I (2003) 61 para. 413 (concerned about “multiple discrimination faced by migrant, refugee and minority women with respect to access to education, employment and health care and exposure to violence”); Denmark, CEDAW, A/57/38 part II (2002) 120 at para. 343 (expressing concern about migrant women, including discrimination in education and employment and gender-based discrimination and violence); Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at para. 292-93 (concerned about “women who migrate from Sri Lanka in search of work and find themselves in situations where they are vulnerable. ... often subjected to abuse and sometimes death” and encouraging measures “including preventing the activities of illegal employment agencies and ensuring that insurance covers the disabled and jobless after they return to Sri Lanka”); Norway, CEDAW, A/58/38 part I (2003) 61 para. 419 (concerned that “a predominant and growing number of women who seek refuge in shelters for battered women are migrants”).

separated from the disadvantages stemming from other personal attributes and identities related to their religion, race or national extraction. The interplay of different grounds of discrimination suffered by migrants results in experiences and patterns of exclusion, disadvantage and abuse that tend to accumulate and intensify and that cut across all spheres: the workplace; access to social services, justice, education, housing and health care; and participation in public life and decision-making bodies.<sup>82</sup>

The Special Rapporteur has also highlighted the need for more data and analysis of the particular problems faced by migrant women.<sup>83</sup>

### 1. Domestic Workers

41. CERD has recommended that States “prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault.”<sup>84</sup> The Special Rapporteur has said that “placing certain categories of migrants such as domestic migrant workers outside the protection of the law” has been a policy that has made them vulnerable.<sup>85</sup> Live-in requirements for caregiver programs have been of particular concern to CEDAW, as they tend to place migrant women in precarious situations.<sup>86</sup>

### 2. Women’s Health

42. CEDAW has also highlighted migrant women as a particularly vulnerable and disadvantaged group that requires special attention regarding health needs and rights.<sup>87</sup>

<sup>82</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2005/85, at para. 67.

<sup>83</sup> *Id.* at para. 76 (“A better understanding of the problems of women and international migration requires improvements in the collection, dissemination and analysis of the kind of data that can explain the causes and consequences of those problems and thus provide a firm basis for appropriate policies and programmes.”).

<sup>84</sup> CERD General Recommendation 30, HRI/GEN/1/Rev.7/Add.1, at para. 34 (May 4, 2005).

<sup>85</sup> Report of The Special Rapporteur On The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 59.

<sup>86</sup> *See* Canada, CEDAW, A/58/38 Part I (2003) 53 at para. 365, *supra*, note 67. *See also* Costa Rica, CEDAW, A/58/38 part II (2003) 86 para. 62 (noting with concern “the precarious working and living conditions of women domestic workers including migrant workers”); Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 217 (concerned about “allegations of substantial prejudice against migrant workers, in particular those coming from Asia and Africa...in particular, of women domestic workers”).

<sup>87</sup> CEDAW General Recommendation 24, HRI/GEN/1/Rev.7, at para. 6 (May 12, 2004) (“While biological differences between women and men may lead to differences in health status, there are societal factors which are determinative of the health status of women and men which can vary among women themselves. For that reason, special attention should be given to the health needs and rights of

43. The CCPR has sought to eliminate practices such as female genital mutilation and honor killings in receiving countries.<sup>88</sup> It has also encouraged measures against early marriage among young girls in immigrant communities.<sup>89</sup>

### 3. Residency and Cohabitation Requirements

44. The CEDAW has encouraged states to take into account the effect on foreign married women when setting requirements for residency permits where such requirements might force women to remain in situations of domestic violence.<sup>90</sup> The CCPR and CEDAW have discouraged legislation requiring non-nationals to cohabit with their spouses in order to retain their residence permits.<sup>91</sup>

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women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women...”)

<sup>88</sup> Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(8) (noting with concern “cases of female genital mutilation and ‘honour crimes’ involving girls and women of foreign extraction (articles 3, 6 and 7 of the Covenant)” and recommending that the State party “continue its efforts to prevent and eradicate such practices” and in particular “ensure that offenders are prosecuted, while promoting a human rights culture in the society at large, especially among the most vulnerable sectors of immigrant communities”).

<sup>89</sup> Sweden, ICCPR, A/57/40 vol. I (2002) 57 at paras. 79(9) (concerned at “the recognition of early marriage involving girls of non-Swedish nationality who are resident in Sweden (arts. 3 and 26 of the Covenant)” and recommending that State party take “vigorous measures to provide better protection for minors in the matter of marriage and eliminate all forms of discrimination among them”).

<sup>90</sup> Denmark, CEDAW, A/57/38 part II (2002) 120 at paras. 347-48 (concerned that “the situation of foreign married women with temporary residence permits who experience domestic violence will worsen when the amendment to the Aliens Act enters into force on 1 July 2002, which will increase the required number of years of residence from three to seven before a permanent residence permit may be obtained” and that “these women’s fear of expulsion will be a deterrent to their seeking assistance or taking steps to seek separation or divorce” and recommending that “revocation of temporary residence permits of foreign married women who experience domestic violence, and legislative changes on residency requirements, should not be undertaken without a full assessment of the impact of such measures on these women.”).

<sup>91</sup> Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(15) (15) (concerned about “foreign spouses of foreigners with residence permits, who are subject to deportation in the event of discontinuation of de facto cohabitation and, hence, may be forced to live in abusive relationships” and recommending that State party “review its policies in relation to distinctions between citizens and aliens and between different categories of aliens, in particular in respect of those who do not have papers and spouses of foreigners with residence permits, in order to ensure that the rights of such persons under the Covenant are respected and ensured (arts. 2, 3, 9, 12, 17 and 23)”; Japan, CEDAW, A/58/38 part II (2003) 130 at paras. 361-362 (concerned about “the particular situation of foreign women who experience domestic violence and whose immigration status might depend on their living together with their spouse” and recommending that “revocation of residence permits of foreign but separated married women who experience domestic violence be undertaken only after a full assessment of the impact of such measures on those women”).

## **B. Children**

### **1. Discrimination Generally**

45. The CRC has expressed concern about discrimination against non-national children in the enjoyment of their rights.<sup>92</sup>

### **2. Education and Healthcare**

46. The CRC has noted the particular health vulnerabilities of disadvantaged children such as those of migrant workers.<sup>93</sup> The CRC and CERD have expressed concern about discrimination against and exclusion of migrant children with respect to access to health care and education.<sup>94</sup> The CRC has noted this to be a problem particularly with regard to unaccompanied, undocumented migrant children.<sup>95</sup> The CRC has also expressed concern about high drop-out and truancy rates among children in this group.<sup>96</sup> The CRC has also expressed concern where non-national children do not have access to adequate healthcare.<sup>97</sup>

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<sup>92</sup> Switzerland, CRC, CRC/C/118 (2002) 78 at para. 326 (recommending that the State party “carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat discriminatory disparities” and that it “strengthen its administrative measures to prevent and eliminate de facto discrimination against foreign children or children belonging to minorities”); Bahrain, CRC, CRC/C/114 (2002) 122 at para. 478 (concerned about “the enjoyment of rights by the *bidoon* and by non-national children, particularly children with disabilities”).

<sup>93</sup> See, E.g., CRC General Comment 3, HRI/GEN/1/Rev.7, at para. 30 (May 12, 2004) (noting that vulnerability to HIV/AIDS is most acute for migrant children.)

<sup>94</sup> Canada, CERD, A/57/18 (2002) 56, at para. 337 (“concerned about allegations that children of migrants with no status have been excluded from the school system”); Andorra, CRC, CRC/C/114 (2002) 134 at para 529 (recommending that “state party take the necessary steps to allow these children access to basic and other social services such as health care and education”).

<sup>95</sup> Spain, CRC, CRC/C/118 (2002) 117 at para. 494 (concerned that “principle of non-discrimination is not fully implemented for...children of migrant workers, particularly when they are not legal, and unaccompanied foreign children, especially with regard to their access to adequate health care and educational facilities”); Cameroon, CRC, CRC/C/111 (2001) 71 at para. 381 (acknowledging “the efforts made to ameliorate the situation of child refugees” but “concerned about the inadequate standards, procedures, policies and programmes to guarantee and protect the rights of refugee, asylum-seeking and unaccompanied children, including their registration, adequate education and other social services”).

<sup>96</sup> Spain, CRC, CRC/C/118 (2002) 117 at para. 509 (concerned about “high rate of truancy and school drop-out and difficult school integration of...children belonging to migrant families...that some children belonging to migrant families, particularly girls, do not complete their compulsory education or have great difficulties in attending school”).

Argentina, CRC, CRC/C/121 (2002) 8 at para. 81 (concerned about “limited access to education and ate the high drop out and repetition rates, especially at secondary school level, which affect in particular, ....children from migrant families, particularly illegal migrants”).

<sup>97</sup> Greece, CRC, CRC/C/114 (2002) 25 at para. 148 (concerned that “children from certain groups, such as the Roma and some immigrant groups, have particularly poor access to health care, leading to a high level of health concerns”). See also Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 549-50 (concerned that “the guarantee of non-discrimination in article 2 of the Convention may be jeopardized, for example by social security laws which effectively deprive non-citizens of rights to social security benefits and impose fees which may inhibit access to health and education services” and

### 3. Detention

47. The Special Rapporteur has said that governments should take measures to protect children in detention including:

“ensuring that the legislation does not allow for the detention of unaccompanied children and that detention of children is permitted only as a measure of last resort and only when it is in the best interest of the child, for the shortest appropriate period of time and in conditions that ensure the realization of the rights enshrined in the Convention on the Rights of the Child, including access to education and health. Children under administrative custodial measures should be separated from adults, unless they can be housed with relatives in separate settings. Children should be provided with adequate food, bedding and medical assistance and granted access to education and to open-air recreational activities. When migrant children are detained, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice should be strictly adhered to. Should the age of the migrant be in dispute, the most favourable treatment should be accorded until it is determined whether he/she is a minor.”<sup>98</sup>

The CRC has also discouraged the detention of migrant children.<sup>99</sup>

### 4. Expulsion

48. The CRC has expressed concern that the principle of best interests of the child is not taken into adequate account during expulsion procedures.<sup>100</sup>

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recommending that the State party “[e]nsure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2” and “prioritize and target social services for children belonging to the most vulnerable groups”); Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 551-552 (concerned that “in practice the system of residence registration in Uzbekistan may restrict the rights of children belonging to vulnerable groups (for example, refugees, non-citizens, migrants and persons internally displaced owing to conflict or economic or environmental factors) to access to health care and other social services” and that “because these rules are issued in various forms (decrees, regulations, instructions, etc.), they may not be sufficiently clear and may be open to abuse by officials reluctant to see migrants settle in their jurisdiction”); Greece, CRC, CRC/C/114 (2002) 25 at para. 160(g) (concerned about “[l]imited access for asylum-seeking, refugee and illegal immigrant children to education and health services”).

<sup>98</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(a).

<sup>99</sup> Greece, CRC, CRC/C/114 (2002) 25 at para. 161 (recommending that the State party “avoid the detention of children”); Sweden, CRC, CRC/C/16 (1993) 16 at para. 57 (recommending that “consideration should be given to providing alternatives to the incarceration of children under the Aliens Act and a public defence counsel should be appointed for children in conflict with the law”).

## 5. Birth Registration

49. The CRC has noted the importance of birth registration of children of migrant workers in ensuring the ability to fully enjoy rights granted under the convention.<sup>101</sup>

## 6. Outreach and Cooperation

50. The CRC has also emphasized the importance of international cooperation and outreach to migrant children in particular.<sup>102</sup>

## 7. Assistance to Unaccompanied Minors

51. The CRC has encouraged the creation of government institutions to assist unaccompanied minors.<sup>103</sup> The CRC has expressed concern about the use of excessive force against foreign children by law enforcement officers.<sup>104</sup>

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<sup>100</sup> Greece, CRC, CRC/C/114 (2002) 25 at para. 164 (concerned “[t]hat young children illegally in the State party are expelled from the country without a process to examine what action would be in their best interests”).

<sup>101</sup> The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at para. 557 (noting three-month grace period given to undocumented migrants to register themselves, but concerned “that a large percentage of children, especially those from migrant families, are not registered and thus have not been able to enjoy their rights fully”). *See also* ICCPR General Comment 17, HRI/GEN/1/Rev.7, at para. 7 (May 12, 2004) (“The main purpose of the obligation to register children after birth is to reduce the danger of abduction, sale of or traffic in children, or of other types of treatment that are incompatible with the enjoyment of the rights provided for in the Covenant.”).

<sup>102</sup> CRC General Comment 2 States:

Children’s human rights issues are not constrained by national borders and it has become increasingly necessary to devise appropriate regional and international responses to a variety of child rights issues (including, but not limited to, the trafficking of women and children, child pornography, child soldiers, child labour, child abuse, refugee and migrant children, etc.). International and regional mechanisms and exchanges are encouraged, as they provide NHRIs with an opportunity to learn from each other’s experience, collectively strengthen each other’s positions and contribute to resolving human rights problems affecting both countries and regions.

CRC General Comment 2, HRI/GEN/1/Rev.7, at para. 29 (May 12, 2004). *See also* Switzerland, CRC, CRC/C/15 (2002) 182 at para. 20(a) (Recommending that State party “strengthen and continue its program for dissemination of information on the Convention and its implementation among children...including initiatives to reach vulnerable groups, especially migrant and asylum-seeking children”).

<sup>103</sup> Belgium, CRC, CRC/C/118 (2002) 29 at para. 118 (welcoming “the creation of a special bureau for unaccompanied minors in the Aliens Office for handling their requests to stay” and noting “the establishment of special reception centres for unaccompanied minors; a draft law on the creation of a guardianship service, access to education and missing persons, which contains provisions on unaccompanied minors” but indicating that “there are not yet, as the Government acknowledges, specific regulations for unaccompanied minors, whether seeking asylum or not”).

<sup>104</sup> Switzerland, CRC, CRC/C/118 (2002) 78 at para. 334 (deeply concerned about “allegations of instances of ill-treatment by law enforcement officers against foreign children and the prevalence of abuse”).

### **C. Victims of Trafficking**

52. Treaty bodies have expressed concern over human trafficking<sup>105</sup> and have welcomed efforts to combat it.<sup>106</sup> States should prevent smuggled persons and victims of trafficking 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.”<sup>107</sup> Treaty bodies have encouraged special reception centers for minors who have been victims of trafficking.<sup>108</sup> They have also encouraged the protection of trafficking victims and special measures to protect those who testify in prosecutions of offenders.<sup>109</sup>

## **XVI. Immigration Policies Generally**

### **A. Countries of Origin**

#### **1. Alleviation of Conditions That Cause Emigration.**

53. Treaty bodies on several occasions have recommended that countries of origin take measures to alleviate poverty in order to ensure that migration occurs out of choice rather than necessity<sup>110</sup> and reduce the vulnerability of migrants to human rights violations.<sup>111</sup>

<sup>105</sup> Cape Verde, CERD, A/58/18 (2003) 62 at para. 364 (concerned about the “occurrence of trafficking in persons, affecting in particular foreigners and people of different race or ethnic origin, in the State party which, according to the information received, is used as a transit point by smugglers”)

<sup>106</sup> Canada, CEDAW, A/58/38 part I (2003) 53 at para. 363 (appreciating “the inclusion of trafficking in persons as constituting a criminal offence under the new Immigration and Refugee Protection Act”).

<sup>107</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 75(b).

<sup>108</sup> Belgium, CRC, CRC/C/118 (2002) 29 at para. 119 (recommending that the State party “[e]xpeditiously efforts to establish special reception centres for unaccompanied minors, with special attention to those who are victims of trafficking and/or sexual exploitation”); Italy, CRC, CRC/124 (2003) 36 at paras. 187 (same).

<sup>109</sup> France, CEDAW, A/58/38 part II (2003) 116 at paras. 273-276 (urging the State party to provide trafficking victims with “the support they need, including through witness protection and social reintegration measures” and recommending that the State party “consider issuing resident permits to victims of trafficking whether or not they testify against their traffickers, and whether or not the perpetrators are punished”).

<sup>110</sup> Republic of Moldova, ICESCR, E/2004/22 (2003) 49 at para. 304 (noting with great concern that high unemployment and low salaries “have prompted massive emigration of people in the active and working age, a majority of who work abroad illegally without social insurance and legal protection” and recommending that the State party “strengthen its efforts to improve job opportunities for young people, women and the Roma population”).

<sup>111</sup> Ecuador, CEDAW, A/58/38 part II (2003) 122 para. 309 (concerned that “given the increasing numbers of Ecuadorian women taking refuge in foreign countries to escape from poverty and extreme poverty...this situation makes it likely that emigrant women will be victims of various forms of

## 2. Assistance

54. With regard to those who have already left, the CMW and the Special Rapporteur have encouraged comprehensive State programs to assist nationals abroad.<sup>112</sup> Governments should “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.”<sup>113</sup> The CMW has also encouraged the establishment of government organs designed to aid citizens abroad.<sup>114</sup>

55. Recommendations have also been made in relation to family members of migrants remaining in the country of origin as well as returning migrants. The CRC has expressed concern about families left behind while migrant workers are abroad.<sup>115</sup> And, the Special Rapporteur has also noted that “difficulties in instantiating and pursuing legal action are faced by migrants who have returned to their home countries.”<sup>116</sup>

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violence, exploitation and trafficking); Mexico, CEDAW, A/57/38 part III (2002) 205 at paras. 437-38 (citing “growing number of Mexican women emigrating to other countries in search of greater job opportunities” and concerned that “this may make them especially vulnerable to situations of exploitation or trafficking” and urging the State party to adopt measures “to alleviate poverty and strengthen and promote the economic input of women, as well as fully guarantee the recognition and exercise of their rights”).

<sup>112</sup> “Respecting the Rights of All Migrant Workers as a Tool to Enhance Development,” A Contribution by the Committee on Migrant Workers to the General Assembly’s High Level Dialogue on Migration and Development, at para. 15(a) (2006) (“States of origin should take measures to provide effective assistance to their nationals abroad, inter alia, through consular protection, whenever the human and labour rights of migrants are threatened or impaired.”). The Special Rapporteur states:

as far as sending countries are concerned, the adoption of comprehensive programmes of protection for their migrant nationals is an important development. ... consular protection is a theme that also deserves further consideration and examination as such practices can provide important examples and guidance to Governments seeking to protect migrants from violations and abuse.

Report of The Special Rapporteur On The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 60.

<sup>113</sup> Report of The Special Rapporteur, Ms. Gabriela Rodriguez Pizarro, E/CN.4/2003/85, at para. 76. The Special Rapporteur adds 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.” *Id.*

<sup>114</sup> Mali, CMW, CMW/C/MLI/CO/1, at para. 5 (April 28, 2006) (noting with satisfaction the existence of the Ministry of Malians Abroad and African Integration).

<sup>115</sup> Sri Lanka, CRC, CRC/C/132 (2003) 48 at para. 257 (concerned “that families of migrant workers receive little or no assistance with their child-rearing responsibilities while they are working abroad”).

<sup>116</sup> Report of The Special Rapporteur On The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 59.

## **B. Receiving Countries**

56. Integration into the receiving country has been a topic dealt with frequently by various treaty bodies.<sup>117</sup> CERD and CEDAW have encouraged States parties to offer language courses to migrant workers.<sup>118</sup> CERD has also welcomed the relaxing of citizenship requirements for civil servants.<sup>119</sup> Several treaty bodies, including the Committee on Migrant Workers, have also addressed the issue of discrimination against migrants by calling on States parties to implement campaigns to counter racism and xenophobia.<sup>120</sup> The Special Rapporteur has noted the reluctance among host countries to accept that there is a demand for migrant labor and the relationship of this reluctance to xenophobic or racist sentiment in the society.<sup>121</sup> The Special Rapporteur has also criticized negative media representation of migrants, stating that “[o]nce a negative discourse misrepresenting migrants is established, it tends to prevail” and “[t]hese negative representations are not adequately compensated for by

<sup>117</sup> See *E.g.*, Norway, CEDAW, A/58/38 part I (2003) 61 para. 415 (concerned about “various obstacles to the integration of migrant and refugee women into Norwegian society.”); Liechtenstein, CERD, A/57/18 (2002) 33 at para. 151 (noting that “the State party is supporting efforts made by non-governmental organizations to help foreigners to integrate into society” and recommending that the State party “continue to lend its support to such organizations in this work which includes providing German language courses, counseling services and information” and that “such activities be expanded, with a view to raising multicultural awareness and enhancing mutual understanding”).

<sup>118</sup> Denmark, CERD, A/57/18, at para. 120 (commending the State party for “having instituted the language training programme for unemployed persons with insufficient knowledge of the Danish language”); Norway, CEDAW, A/58/38 part I (2003) 61 para. 416 (recommending that state “strengthen its efforts to, inter alia, enable and encourage migrant and refugee women, particularly those with care-giving responsibilities, to participate in Norwegian-language classes”).

<sup>119</sup> Liechtenstein, CERD, A/57/18 (2002) 33 at paras. 149 (noting with appreciation that “civil servants in Liechtenstein are not necessarily required to have Liechtenstein citizenship”).

<sup>120</sup> “Respecting the Rights of All Migrant Workers as a Tool to Enhance Development,” A Contribution by the Committee on Migrant Workers to the General Assembly’s High Level Dialogue on Migration and Development, at para. 8(b) (2006) (“State of employment should encourage the media to counter tendencies of racism, xenophobia and discrimination by drawing attention to the positive contributions of migrant workers to the development of the host society”); Ecuador, CERD, A/58/18 (2003) 22 at para. 66 (concerned about “reports on discrimination and hostility suffered by migrants” and calling on the State party to “intensify its efforts in designing and implementing educational campaigns to combat racial discrimination within all sectors of society”); Norway, CEDAW, A/58/38 part I (2003) 61 para. 414 (urging state party to “take effective measures to eliminate discrimination against migrant, refugee and minority women and to further strengthen its efforts to combat xenophobia and racism”); Libyan Arab Jamahiriya, CRC, CRCC132 (2003) 74 at para. 370-71 (concerned that “xenophobia, particularly toward migrant workers, persists in the State party and that it is harmful to the child’s developing respect for human rights, including the right to non-discrimination” and recommending “all appropriate measures, including comprehensive public education campaigns to prevent and combat negative societal attitudes towards migrant workers”); Hungary, CERD, A/57/18 (2002) 63 at para. 372 (welcoming broadcasting legislation “aiming at preventing hate speech and discrimination on racial, national and ethnic grounds”).

<sup>121</sup> Report of The Special Rapporteur On The Human Rights of Migrants, Jorge Bustamante, E/CN.4/2006/73, at para. 52.

positive images, such as the cultural contribution of migrants.”<sup>122</sup> CERD has also encouraged assistance<sup>123</sup> and employment programs for migrants.<sup>124</sup>

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<sup>122</sup> *Id.* at para. 68. *See also* United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at para. 532 (concerned about “the increasing racial prejudice against ethnic minorities, asylum-seekers and immigrants reflected in the media and the reported lack of effectiveness of the Press Complaints Commission in dealing with this issue” and recommending that the State party consider further how the Press Complaints Commission can be made more effective and can be further empowered to consider complaints received from the Commission for Racial Equality as well as other groups or organizations working in the field of race relations”).

<sup>123</sup> Austria, CERD, A/57/18 (2002) 15 at paras. 23 (noting with satisfaction “the establishment of the Immigrants Fund which assists new immigrants by providing free advice in their native language on questions concerning their integration in Austria”).

<sup>124</sup> CERD, A/57/18, at para. 120 (commending the State party for “strengthening of Public Employment Services placement activities in relation to refugees and immigrants”).