

BACKGROUND PAPER BY
THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
TO THE EIGHTH COORDINATION MEETING ON INTERNATIONAL MIGRATION

Office of the United Nations High Commissioner for Human Rights (OHCHR)

A. THE IMPACT OF THE ECONOMIC AND FINANCIAL CRISIS
ON INTERNATIONAL MIGRATION

The challenges faced by migrants are today compounded by new threats, such as the global financial crisis and economic downturn, climate change and food insecurity. Special sessions of the Human Rights Council on food emergencies and on the financial crisis highlighted the critical vulnerabilities of migrants. As the global financial meltdown becomes a protracted and diffuse economic crisis, a rise in xenophobia, anti-migrant sentiment and discriminatory practices is likely to affect the civil, cultural, economic, political and social rights of migrants. Migrant workers —those documented as well as those in an irregular situation— will, and in some cases already are, the first ones to lose their jobs. They are usually employed in sectors that are either structurally more exposed to the vagaries of market forces, or that are more directly affected in times of crisis. In a context of growing unemployment accompanied by shrinking States' resources, policy adjustments, such as cutbacks in spending in the health, education and social protection sectors, might be taken at the expense of, or have a disproportionate impact on, migrant workers and their families whose status is called into question. In light of these considerations, human rights protection is particularly crucial during an economic crisis that has the potential of exacerbating or igniting discrimination and xenophobia.

B. CURRENT AND PLANNED ACTIVITIES
IN THE AREA OF INTERNATIONAL MIGRATION AND DEVELOPMENT

1. Activities of Office of the United Nations High Commissioner for Human Rights

The Office of the United Nations High Commissioner for Human Rights (OHCHR) continues its efforts to strengthen the protection of the human rights of migrants and to ensure that the perspective of the human rights of migrants is included among the priority issues in ongoing discussions on international migration and development. OHCHR will further focus its work in the area of human rights and migration during the next biennium (2010-2011). Advocating for a human rights approach to migration, OHCHR seeks to place human rights standards at the centre of migration considerations and to make use of existing human rights mechanisms to protect the human rights of migrants. In doing so, OHCHR emphasizes that the effective protection of the human rights of migrants is critical to ensuring that migration is a choice and an opportunity rather than a survival strategy and to facilitating the integration of migrants in countries of destination, enabling them to become fully active members of their new communities.

The High Commissioner has noted with concern that in some countries laws and regulations continue to exist or be adopted that deter migrants and their families who are in irregular situations from accessing basic human rights, such as health care and education, or deny their children from being registered at birth. The High Commissioner will continue to advocate

for the repeal of such laws in order to ensure the protection of the human rights of migrants and their families.

In particular, OHCHR has raised awareness about violations of the human rights of migrants related to (a) discrimination, xenophobia and racism; (b) access to economic, social and cultural rights; (c) administrative detention of migrants in an irregular situation and the criminalization of their actions, and (d) the impact of the global financial and economic crisis on migrants.

These concerns have also been addressed by special procedures of the Human Rights Council. For example, the Working Group on Arbitrary Detention, in its 2009 annual report noted a trend towards the tightening of restrictions applied to asylum-seekers, refugees and immigrants in irregular situations, even to the extent of making the irregular entry into a State a criminal offence or qualifying the irregular stay in the country as an aggravating circumstance for any criminal offence. The Working Group concluded that immigrants in irregular situations should not be qualified or treated as criminals and recalled a number of human rights standards and principles that should be adhered to by Member States with respect to deprivation of liberty in the context of irregular migration.

Through the Global Migration Group, OHCHR has actively sought to promote and to mainstream a human rights approach to migration within the United Nations system. In 2008, OHCHR contributed to a Global Migration Group publication on migration and human rights (Global Migration Group, 2008).

In addition to the support of the office for the migration-related activities of the special procedures and the human rights treaty bodies, examples of activities undertaken by OHCHR at the global level include:

- (a) An open-ended expert consultation to explore the relationship between human rights, the inclusion, acceptance and integration of migrants in host societies, and migrants' contribution to the development in both origin and destination countries which was held in Geneva, Switzerland, on 8 October 2009. The meeting aimed to support States and other stakeholders preparing for discussions during the 2009 Global Forum on Migration and Development (GFMD) in Athens, Greece, from 2 to 5 November 2009. The meeting (i) focused on the international human rights framework relevant for the inclusion and acceptance of migrants in host countries; (ii) GlobBI Migrations, and i6clun G4rie ii

In addition, the Committee on Migrant Workers (CMW) at its eleventh session celebrated International Labour Day on 1 May 2009 with a half-day panel discussion on the right of all migrant workers to freedom of association, including the rights to organize themselves in trade unions. The CMW decided to start elaborating a general comment on migrant domestic workers in its 2010 session.

On 14 October 2009, the CMW held a day of general discussion on the topic of migrant domestic workers. The day aimed, inter alia, at providing input to the debate at the ninety-ninth session of the International Labour Conference to be held in Geneva, Switzerland from 2 to 18 June 2010 which will discuss decent work for domestic workers and consider the adoption of a new ILO instrument on domestic workers by 2011. More generally, the Committee intended to promote greater awareness of the particular situation and rights of migrant domestic workers, including at international forums such as the Global Forum on Migration and Development.

4. Human rights special procedures

OHCHR continued supporting the activities of the Special Rapporteur on the Human Rights of Migrants, which are carried out in accordance with resolution A/HRC/RES/8/10⁵ and resolution A/HRC/RES/9/5.⁶ The Special Rapporteur continued to emphasize the State's obligation to respect and protect the human rights of all human beings under the jurisdiction of the State, regardless of immigration status. Following the momentum created by the Durban Review Conference, the Special Rapporteur drew attention to a number of human rights concerns that should be considered as warnings that xenophobic outbreaks were on the rise and emphasized the need for a serious and in-depth approach to combat racism, racial discrimination, xenophobia and related intolerance that are negatively affecting the enjoyment of human rights by migrants. This concern was reiterated throughout the year in statements before the Human Rights Council and the General Assembly and at several panels and events the Special Rapporteur had organized, which discussed, inter alia, (a) the protection of children and migrant domestic workers in the context of migration as well as the realization of migrants' economic, social and cultural rights and (b) the interrelatedness between the human rights of migrants, the financial crisis as well as the achievement of sustainable and alternative measures to the detention of migrant.

In addition, the Special Rapporteur's major thematic focus of 2009 was the protection of children in the context of migration to seize the momentum created by the celebration of the twentieth anniversary of adoption of the Convention on the Rights of the Child. This theme was included in the annual report A/HRC/11/7⁷ by the Special Rapporteur to the Human Rights Council and his report to the General Assembly, A/64/213, and was the major theme addressed in the interactive dialogues held with both bodies.

In 2009, at the invitation of Governments, the Special Rapporteur undertook country visits to Romania from 15 to 20 June, the United Kingdom from 22 to 26 June and Senegal from 17 to 21 August. The country mission reports as well as a thematic annual report will be presented to the Human Rights Council in June 2010. A comprehensive report on the activities of the Special Rapporteur between January 2009 and June 2010 will be submitted to the sixty-fifth session of the General Assembly at its request.

Within the framework of their mandates, a number of other special procedures of the Human Rights Council related to migration were undertaken in 2009. Some mandate holders participated in human rights and migration-related activities and migration was a theme mainstreamed in efforts undertaken by the experts within their respective mandates. The mandates on contemporary forms of racism, human rights defenders, torture, freedom of expression, freedom of religion, trafficking in persons, summary executions and arbitrary detention were addressed to Governments by a number of communications by non-nationals and migrants independently or jointly with other special procedures, including in some instances the Special Rapporteur on the Human Rights of Migrants. Following the special procedures' mandate on education, for example, a questionnaire among stakeholders was distributed to request information on the right to education of migrants, refugees and asylum-seekers, which would also be the topic of the annual thematic report of the Special Rapporteur for 2010.

The Special Rapporteur on freedom of religion or belief, in her latest report to the General Assembly, A/64/159,

⁴ For concluding observations of the Committee, see CMW/C/AZE/CO/1, CMW/C/BIH/CO/1, CMW/C/COL/CO/1 and CMW/C/PHL/CO/1 at <http://www2.ohchr.org/english/bodies/cmw/cmws10.htm> (accessed 5 May 2010).

⁵ For the resolution, see http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_10.pdf (accessed 6 May 2010).

⁶ For the resolution, see http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_9_5.pdf (accessed 6 May 2010).

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