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Preparation Paper

Human Rights Council (HRC)

"Human Rights of Migrant Workers"

1. About the Human Rights Council

The UNHRC is an international body within the United Nations System. Its stated purpose is to address human rights violations. The Council is the successor to the United Nations Commission on Human Rights.

The Commission was often criticized for the high-profile positions it gave to member states that did not guarantee the human rights of their own citizens. International politics and the competing interests of states undermined and marginalized the commission. Nevertheless, its achievements provide the basis on which its successor, the Human Rights Council, works.

The United Nations General Assembly established the Human Rights Council, which was proposed by the SG Kofi Annan in his visionary report "In Larger Freedom", on 15 March 2006 under the Resolution 60/251. The Commission was abolished on 16 June and three days later, on 19 June, the Council began its work. The new human rights body was created with the approval of 170 members of the (then) 191-nation General Assembly. Only the US, Israel, the Marshall Islands and Palau voted against the Council's creation, claiming that it would have too little power and that there were insufficient safeguards to prevent human rights-abusing nations from taking control. Belarus, Iran and Venezuela abstained from the vote, and a further seven countries (Central African Republic, North Korea, Equatorial Guinea, Georgia, Kiribati, Liberia and Nauru) were absent from the session.

The 47-seat Human Rights Council (HRC) replaces the former 53-member Commission on Human Rights (CHR). The Commission was an independent body, but the Council has been elevated to the status of a subsidiary body of the Assembly. The 47 seats in the Council are distributed among the UN's regional groups as follows: 13 for Asia, 6 for Eastern Europe, 8 for Latin America and the Caribbean, and 7 for the Western European and Others Group.

In an attempt to remedy problems of the former Commission, which was criticized among other actions for the election of Libya to its chairmanship in 2003, the resolution establishing the Council specified that "members elected to the Council shall uphold the highest standards in the promotion and protection of human rights" and will be subject to periodic review. Each member nation of the Council must be approved individually and directly by a majority (96 of 191) of the members of the General Assembly, in a secret ballot. Council membership is limited to two consecutive terms, and any Council member may be suspended by a two-thirds vote of the Assembly. Despite these efforts the initial members of the Council included numerous states with poor records on human rights.

2. General Introduction to the topic of migrant workers

The term "migrant worker" has different official meanings and connotations in different parts of the world; the United Nations' definition is that "the term 'migrant worker' refers to a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national."

Among more than 175 million people who live in a country other than that of their birth or citizenship are many migrant workers. Roughly one out of every thirty-five persons in the world is a migrant – yet a large number of migrants are marginalized in their new countries of residence.

The topic of migrant workers has been existing ever since payment in return for labour was introduced. Both women and men leave their homelands in search of work elsewhere, often in order to improve their current standard of living. Some of the major reasons for workers to emigrate include poverty, the inability to earn enough to support oneself or one's family, civil wars, social unrest, discrimination, persecution and insecurity in their homelands. Sometimes, at a distance, conditions in industrially developed countries seem better than in LDCs (Less Developed Countries) or poor countries.

However, migrant workers often have to deal with problems of adjustment. They might for example be confronted with discrimination in the field of employment but they may also have to handle unsatisfactory living conditions, low incomes, high rents, housing shortages and local prejudice against foreign elements in the community. Furthermore, their integration into the social environment of receiving States without loss of their cultural identity is another problem which has been subject of international debate.

According to figures from the International Labour Organisation (ILO), occupational accident rates are about twice as high for migrant workers as for native workers in Europe – yet migrants often suffer from an irregular

status, unable to access social security benefits such as health insurance and employment injury coverage. And the situation is no better in Arab countries, South-East-Asia or any other corner of the world.

3. International action

International action has been taken and there are many international organizations that engage in the topic of migrant workers. One of the most important institutions concerning this topic is the International Labour Organization (ILO). "At lower skilled levels, migrants are too often perceived as exploitable and expendable, a source of cheap, docile and flexible labour, apt for the three 'd's – dirty, dangerous and degrading – jobs that nationals are unavailable for or unwilling to take," says Senior Migration Specialist Patrick Taran from the ILO. The ILO has therefore been in the forefront of efforts to secure and maintain a fair deal for migrant workers and their families since the 1920s.

Another leading inter-governmental organization in the field of migration is the International Organization for Migration (IOM), dedicated to promoting humane and orderly migration for the benefit of all by providing services and advice to governments and migrants.

Other organizations and departments of the United Nations Organization (United Nations Commission for Social Development; United Nations Educational, Scientific and Cultural Organization; United Nations Children's Fund) have given particular attention to the educational needs of the children of migrant workers and the protection of their rights.

Recent UN conferences with regard to migrant workers such as the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), the World Summit for Social Development (Copenhagen, 1995) and the Fourth World Conference on Women (Beijing, 1995) have all urged States to guarantee the protection of the human rights of all migrant workers and their families. They have emphasized the importance to foster harmony and tolerance between migrant workers and the rest of the society. Furthermore, they have achieved that States committed themselves to ensure that concrete and effective measures against the exploitation of migrant workers will be taken.

In December 1990 further action was taken on an international level in order to promote the rights of migrant workers and their families concerns when the General Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Efforts have been made to ensure that the rights of migrant workers are protected and respected.

4. Main features of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

The Convention provides a set of binding international standards to address the treatment, welfare and human rights of both documented and undocumented migrants as well as the obligations and responsibilities on the part of the sending and receiving States.

More than 150 million migrants, including migrant workers, refugees, asylum seekers, permanent immigrants and others, live and work in a country other than that of their birth or citizenship. They represent two percent of the world's population. Persons who qualify as migrant workers under the provisions of the Convention are entitled to enjoy their human rights regardless of their legal status. The Convention reflects an up-to-date understanding of migratory trends as seen from the point of view of both States of origin and host States of migrant workers and their family.

The Convention breaks new ground in defining those rights which apply to certain categories of migrant workers and their families, including: "frontier workers", who reside in a neighbouring State to which they return daily or at least once a week; seasonal workers; seafarers employed on vessels registered in a State other than their own; workers on offshore installations which are under the jurisdiction of a State other than their own; itinerant workers; migrants employed for a specific project; self-employed workers.

Part VI of the Convention imposes a series of obligations on States parties in the interest of promoting "sound, equitable, humane and lawful conditions" for the international migration of workers and members of their families. These requirements include the establishment of policies on migration; the exchange of information with other States parties; the provision of information to employers, workers and their organizations on policies, laws and regulations; and assistance to migrant workers and their families.

The Convention establishes rules for the recruitment of migrant workers, and for their return to their States of origin. It also details the steps to be taken to combat illegal or clandestine migration.

Overall, the Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families throughout the entire migration process. In particular, it seeks to put an end to the illegal or clandestine recruitment and trafficking of migrant workers and to discourage the employment of migrant workers in an irregular or undocumented situation.

The entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (July 2003) will reinforce and complete a series of other provisions under the main United Nations human rights treaties. Many of the provisions of such treaties in fact provide for the protection of migrants. Particularly relevant in this regard are the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The Committees monitoring the implementation of these treaties have on many occasions expressed concern that often there is a failure to implement their provisions without discrimination in respect to migrants.

5. The current situation of migrant workers considering the special circumstances of the current economic crisis

At present, all countries – both, developed and developing, poor and rich – face an economic crisis that has large impact on the labour market. There is no continent, no region of the world, which does not have its contingent of migrant workers and there is none of them left unaffected by the global financial crisis. Among the countries most affected by the current developments are Russia, China, the Persian Gulf region but also European countries such as Spain and Italy.

The crisis is putting great pressures on national labour markets resulting in high unemployment rates. Instead of promoting immigration, governments and trade unions are now tending to promote policies that protect their national workforce at the expense of migrant workers.

The UN Human Rights Council has already discussed the fact that the global crisis will have an especially huge impact on the livelihoods of vulnerable and already marginalized groups, including women, children, disabled people, refugees and immigrants. The crisis has slowed down demand for products produced in sectors like construction in which a major part of migrant workers are employed. Therefore, migrant workers are among the first to be effected and lose their job despite the fact that prior to the crisis, this sector had been one of the major engines of growth for many countries.

a) Rise In Social Tensions

In history we have experienced that an economic crisis also has large social impact. When jobs become more scarce, a rise in social tensions and xenophobia can be witnessed and migrant workers are at special risk of discrimination and abuse.

Given that some countries may take increasingly protectionist stances, the options for formal migration will narrow rapidly. As a result, migrants abroad may face increasingly difficult conditions, with fewer employment opportunities and may face greater discrimination and stigmatization. This will lead to more undocumented migrants who may seek to work without authorization which would make them even more vulnerable.

UN Secretary-General Ban Ki-moon recognizes precarity of the situation and said that “protecting the rights and livelihoods of millions of migrant workers during the global slowdown will benefit economies,” He has also urged all nations to “ensure through their domestic legislation and political and social framework to protect and promote the human rights of migrant workers”. He also suggested that the financial crisis could uproot entire communities of foreign workers around the world and cause major changes to the dynamics of international migration. "It would be naive to think the current [economic] crisis will have no effect on the movement of people across the borders and on how our publics perceive migration and the migrants in their midst," Ban said at a global forum in October. "Already migration flows are reversing," he added. "In several instances, we are seeing a net outflow from countries facing economic crisis, especially from badly affected sectors such as construction and tourism, where many migrants are employed." Ban said it is important that governments protect the rights of foreign workers in order to prevent mass migrations of angry, unemployed, and impoverished workers. "I would also urge those countries who accommodate many migrants -- they should ensure, through their domestic legislation and political and social framework -- to protect and promote the human rights of migrant workers," he said. But there are signs that the opposite is taking place in some countries.

b) South-East-Asia

According to State statistics, the current number of migrant workers in China is estimated at 150 million, that is to say nearly 11.5% of the population. China's urban migrants sent home the equivalent of almost 300 billion US\$ in 2005.

For years, migrant workers from impoverished rural areas of China have flocked to factories in the country's eastern coastal areas for work. Due to the financial crisis though, an estimated number of 600,000 migrant workers have left China's southern Guangdong Province due to unemployment in 2008 after the worldwide financial crisis hit the region, a government official said Thursday. Guangdong is the forefront of the country's reform and opening policy. Since 1978, the province's annual gross domestic product (GDP) has increased by an average of 13.45 percent, 3.5 percentage points higher than the nation's average. The Pearl River Delta in southern Guangdong is the country's manufacturing and exporting center.

But the global financial crisis has slowed the demand for products made in those factories. Tens of thousands have closed already this year, and the number is expected to rise by year-end -- leaving millions of Chinese migrants unemployed. Already, a mass exodus is under way within China as millions of jobless migrants return from the cities to their impoverished villages.

The same situation can be seen in all regions of South-East-Asia. While the massive economic growth in the tiger states was just possible with the workforce of millions of migrant workers, they lose their jobs now due to the financial crisis. When Malaysian companies take it upon themselves to terminate hiring contracts and tell migrant workers to go home after they have worked for two of the three years they were supposed to, they do not take workers' problems into consideration. He has invested a huge amount of money; he is in debt and expects to repay it through his remittances. It is these issues that must be looked into. Migrant workers must not be treated in the same way as local workers when it comes to compensating the affected.

c) Arab Countries

One of the largest markets for Arab and Asian job seekers has been that of the Gulf states:

Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman: members of the 1981 established the Gulf Cooperation Council (GCC). Since the discovery of oil, these countries, lacking a local workforce, have been employing a large expatriate labor force. That process has had a very significant impact on the economy, politics, and the social structure of the GCC states. It has allowed for a rapid development of these countries, but at the same time involved them in various foreign affairs developments and brought a number of negative cultural and socio-economic consequences. Although foreigners in the GCC states have not created problems of the magnitude of those found in other immigrant countries of the world, different economic and political interests of governments and individuals have brought numerous tensions and conflicts, which intensified in the post 9/11 era. In the Persian Gulf region, major construction projects financed by a seemingly endless stream of oil revenue have brought millions of migrant workers to the region - mostly from Asian countries such as India, Pakistan, Bangladesh, Sri Lanka, and the Philippines.

But now, the fall in the price of oil that has accompanied the global recession is causing a sharp downturn in development within the six Gulf Cooperation Council states (Saudi Arabia, the United Arab Emirates, Kuwait, Bahrain, Qatar, and Oman).

Analysts say neither the developers, the investors, nor the migrant workers are prepared for what is next. They predict that as many as half of the region's 13 million foreign workers could lose their jobs in the months ahead. The migrants will either have to stay in the Gulf countries as illegal immigrants or go back to their own countries to seek employment.

d) Europe

European countries also are seeing similar problems as a result of the financial crisis.

Millions of foreign workers flocked to Spain for jobs from 1994 to 2007 when the country saw continuous economic growth. Most of the 4.5 million migrant workers now in Spain are from Latin America, North Africa, or Eastern Europe. Many had jobs in construction, until this year, when the global economic crisis hit Spain's construction sector hard. In Spain, again, migrant workers have been among the first to lose their jobs.

Complicating their situation further, the Spanish government in September announced a plan to fight soaring unemployment by limiting the number of foreign workers. Government ministers argue that they have no choice but to respond to the needs of the labor market -- and protect the jobs of Spanish citizens.

e) Russia

In Russia, Prime Minister Vladimir Putin this month signed a decree aimed at reducing quotas on the number of foreigners working in the country. Putin says the move will ease the impact of the financial crisis.

But at the same time, a youth branch of Putin's Unified Russia party, calling itself the Young Guard, has been engaged in a campaign to reclaim jobs for Russians that are occupied by foreign migrant workers.

Andrei Tatarinov, the deputy head of Young Guard's Moscow office, told RFE/RL's Russian Service said the campaign aims to rid the country of "every other" migrant worker. "Considering the difficult financial situation in our country, we believe that we must think about our native workers -- take care of them, their salaries and their jobs," Tatarinov said. "We don't think it's right to feed foreign economies and send money abroad by paying migrant workers. We are ready to help the Federal Migration Service by jointly patrolling construction sites that employ many immigrants."

f) Promoting Xenophobia

The International Organization for Migration is an intergovernmental organization based in Geneva, Switzerland, that works worldwide to make migration beneficial for both migrant workers and the countries involved.

IOM spokesman Jean-Phillippe Chauzy says that policies like those passed in Russia this month are a cause of concern for his organization as it marks International Migrants Day on December 18.

"What the International Organization for Migration is saying on International Migrants Day is that countries worldwide should recognize the positive contributions that migrants can and do make to economic growth -- even at a time of global financial crisis," Chauzy says. "And therefore, those countries should resist the temptation to close their doors to migrants in times of economic slowdown because there is a structural need for migrants," he adds.

Chauzy explains that government policies that close the doors to legal migration may inadvertently be enriching criminal organizations, because "policies that would tend to block migration flows will encourage more people to go through irregular routes -- very often putting their lives and their savings in the hands of smuggling and trafficking networks that operate worldwide." Perhaps most importantly, Chauzy says protectionist policies can contribute to an environment that breeds xenophobia, "because the impact of the crisis is very strong and people are competing for jobs. It would be very short-sighted of governments to start finger-pointing at migrants as being responsible for the current state of economic affairs."

Sources of the Preperation Paper and sources for delegates to do more research on the topic:

United Nations, UN Human Rights Council

<http://www.un.org>

UN Human Rights bodies

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

Official Homepage HRC

<http://www2.ohchr.org/english/bodies/hrcouncil/>

(UN organization chart)

<http://www.un.org/aboutun/chartlg.html>

Resolution 60/251 of the General Assembly establishing the Human Rights Council

http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf

Office of the High Commissioner of the Human Rights

<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm

Main features of the Convention

<http://www.unhchr.ch/html/menu2/6/cmw/features.htm>

Press release regarding the Convention

<http://www.unhchr.ch/huridocda/huridoca.nsf/view01/B87E9E85C7147498C1256CEF00385E50?opendocument>

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families – FAQ

<http://www.unhchr.ch/html/menu2/6/cmw/faqs.htm#1>

Documents on Special Rapporteur of the Commission of Human Rights, Resolutions of the Human Rights Council, other documents, reports and countries' statements

<http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/migrants%20En?OpenDocument&Start=1&Count=15&Expand=1>

<http://www.unhchr.ch/html/menu2/i2othmig.htm>

Fact Sheet

<http://www.unhchr.ch/html/menu6/2/fs24.htm>

Report on Arab versus Asian migrant workers in the GCC Countries

http://www.un.org/esa/population/meetings/EGM_Itmig_Arab/P02_Kapiszewski.pdf

ILO – International Labour Organization

<http://www.ilo.org/global/lang--en/index.htm>

IOM – International Organization for Migration

<http://www.iom.int/jahia/jsp/index.jsp>

<http://www.iom.int/jahia/Jahia/media/news-releases/newsArticleEU/cache/offonce?entryId=20561> (article: “See Migrants as Part of the Solution During Economic Crises, Says IOM on International Migrants’ Day”)

Others (articles, newspapers)

<http://www.erenlai.com/index.php?aid=815&lan=3> (eRenlai, a Pan-Asian magazine)

<http://www.china-labour.org.hk/en/> (China Labour Bulletin, an organization seeking to defend and promote workers rights in the People’s Republic of China)

http://news3.xinhuanet.com/english/2006-11/10/content_5312695.htm (China News, article)

<http://english.peopledaily.com.cn/90001/90776/90882/6593278.html> (Chinese Newspaper)

http://www.newsgd.com/news/guangdong1/content/2009-01/09/content_4830951.htm (Chinese Newspaper)

In addition to these sources, we highly recommend that all delegates keep informed about current developments on the topic by following the news!