



SRMUN Atlanta 2017
Development through Dialogue: Using Global Cooperation to Build Lasting Change
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Esteemed Delegates,

I welcome you to SRMUN Atlanta 2017 and the Human Rights Council (HRC). It is my distinct pleasure to serve as your Director for this stimulating and exciting committee. My name is Rachael Wnuk and this is my fourth year participating at SRMUN Atlanta and third year on staff. In years prior, I have served in two positions: once as Assistant Director (AD) of the World Health Organization (WHO) and, most recently, Director of the United Nations High Commissioner on Refugees (UNHCR). Currently, I am a student at the University of North Florida completing a degree in Elementary Education with minors in French, Health Care Education, and Psychology. Serving as your AD for this committee is Melissa Nelson. This will be Melissa's second time serving in the role as an AD; previously serving in the General Assembly Plenary at SRMUN Atlanta 2016. Melissa is a graduate of the University of Texas at Tyler where she earned a Bachelor's degree in Political Science and International Relations. Currently, she is working on her Masters in Human Rights and Global Ethics at the University of Leicester and her PhD in Sociology at Texas A&M University.

The Human Rights Council was created under General Assembly Resolution 60/251 (A/RES/60/251) on 15 March 2006 and is composed of 47 Member States. The HRC is responsible for promoting and strengthening the protection of Human Rights globally, as well as addressing human rights violations and recommending efforts to combat them.

By focusing on the mission of the HRC and the SRMUN Atlanta 2017 theme of "*Development through Dialogue: Using Global Cooperation to Build Lasting Change*," we have developed the following topics for the delegates to discuss come conference:

- I: Protecting and Promoting the Human Rights of Migrant Domestic Workers
- II: Combating Human Trafficking Among Refugees and Displaced Persons

The following background guide serves as a base core for your research, however, it should not be utilized as a delegation's entire means for the above topics. The background guide for each individual topic are prepared in depth solely to be used as a starting point. Delegates are expected to research beyond the guide to develop their position paper and in preparation for the conference. Each delegation is required to submit a position paper no longer than two pages in length (single spaced) to showcase your Member State's position, policies, and recommendations on each of the two topics. More information regarding position paper formatting and examples can be found on the SRMUN website. ***All position papers MUST be submitted no later than Friday, October 27, 2017 at 11:59 pm EST via the SRMUN website.***

Melissa and I send you the warmest regards in preparation for the 2017 SRMUN Atlanta Conference and look forward to your position papers and diligent work during committee. Please feel free to contact, Melissa or myself should you have any questions during your preparation for the conference.

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History of the Human Rights Council

The Human Rights Council (HRC) is a body currently composed of 47 Member States. This inter-governmental body is focused on providing protection and promotion of human rights around the world. The HRC was established by the General Assembly on 15 March 2006 through the adoption of resolution A/RES/60/251.¹ Its establishment replaced the previously existing United Nations Commission on Human Rights (UNHRC) with the Human Rights Council.² The HRC is responsible for and charged with addressing human rights issues, which include, but are not limited to, freedom of belief, religion, expression, association and assembly, women rights, lesbian, gay, bisexual, and transgender (LGBT) rights, and minorities.

The HRC is a subsidiary committee of the General Assembly and works in partnership with the Office of the High Commissioner for Human Rights (OHCHR).³ The Council convenes in Geneva for at least three sessions throughout the year and meets no less than 10 weeks in total. This is in contrast to the preexisting commission that only met once per year.⁴ Seats for the 47 Member States are dispersed based on the United Nations' regional bodies, resulting in the following distribution of seats per region: six for Eastern Europe, seven for Western Europe, eight for Latin America, thirteen for Asia, and thirteen for Africa.⁵ Members of the Council serve for three year periods and cannot be immediately rejected if they have served for two consecutive terms.⁶ In addition to the Members of the Council, the HRC also has a Bureau, which consists of five people representing the five regional groups. The President and four Vice Presidents serve in one year terms compared to Members who serve in three year terms.⁷

In accordance with the mission of the HRC, the Council adopted A/HRC/RES/5/1 the same year it was established. This Resolution initiated a complaint procedure for individuals, groups, and organizations to report human rights violations against them or violations they have credible knowledge of to either the Working Group on Communications or the Working Group on Situations. The HRC has been involved in a multitude of Commissions of Inquiries (CoIs), Fact-Finding Missions (FFM), and Investigations across seven Member States or territories: Eritrea⁸, Burundi⁹, Libya¹⁰, Democratic Republic of Korea¹¹, Sri-Lanka¹², Gaza¹³ and Palestine¹⁴. The HRC has also

¹ "Resolution Adopted by the General Assembly on 15 March 2006." A/RES/60/251 (2006): n. pag. Human Rights Council. United Nations, 3 Apr. 2006. Web. 12 May 2017. <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/502/66/PDF/N0550266.pdf?OpenElement>>.

² Ibid.

³ Human Rights Council: Resolution. Office of the High Commissioner of Human Rights. United Nations, 2006. Web. 12 May 2017. <<http://www2.ohchr.org/english/press/hrc/kit/QA.pdf>>.

⁴ Ibid.

⁵ "Membership of the Human Rights Council." OHCHR | Membership of the Human Rights Council. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>>.

⁶ Ibid.

⁷ Ibid.

⁸ "Commission of Inquiry on Human Rights in Eritrea." OHCHR | Commission Inquiry on Human Rights on Eritrea. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/CoIEritrea/Pages/commissioninquiryonhrinEritrea.aspx>>.

⁹ "United Nations Independent Investigation on Burundi." OHCHR | United Nations Independent Investigation on Burundi. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/UNIIB/Pages/UNIIB.aspx>>.

¹⁰ "OHCHR Investigation on Libya." OHCHR | OHCHR Investigation on Libya. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/Pages/OIOL.aspx>>.

¹¹ "Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea." OHCHR | Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/CommissionInquiryonHRinDPRK.aspx>>.

¹² "OHCHR Investigation on Sri Lanka." OHCHR | OHCHR Investigation on Sri Lanka. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>>.

¹³ "United Nations Fact Finding Mission on the Gaza Conflict." OHCHR | United Nations Fact Finding Mission on the Gaza Conflict. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session9/Pages/FactFindingMission.aspx>>.

¹⁴ "International Fact-Finding Mission." OHCHR | International Fact-Finding Mission. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017. <<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx>>.

experienced considerable success since its inception in 2006. In 2013, the HRC passed resolution A/HRC/RES/22/6 without a vote, which emphasizes the protection of the rights of human rights defenders and legitimizes their role in the promotion of human rights.¹⁵ This was affirmed further in 2016 with A/HRC/RES/31/32, which was adopted by a recorded vote following oral revisions (33 to six with eight abstentions).¹⁶

Currently, the HRC is conducting a FFM in Myanmar, and CoIs in Burundi and Syria. On 24 March 2017, in accordance with Resolution A/HRC/RES/34/22, the HRC began conducting a FFM in the Rakhine State of Myanmar to investigate allegations of torture and inhumane treatment, sexual violence, arbitrary detention, enforced disappearances, forced displacement, extrajudicial, summary and arbitrary killings, and unlawful destruction of property.¹⁷ On 30 September 2016, the HRC passed A/HRC/RES/33/24 and established a CoI on Burundi¹⁸ to determine whether or not, and to what extent, human rights violations and abuses occurred and to hold those responsible accountable, as a result of allegations made against perpetrators of human rights violations in Burundi.¹⁹ On 22 August 2011, during the 17th special session, the HRC called for a CoI of the current state of Human Rights in the Syrian Arab Republic.²⁰ Since the establishment of the mandate, the HRC has released nine formal reports on the current state of human rights in Syria and passed 17 resolutions pertaining to the violations which consisted of; government forces involvement in the mass killing of citizens (Dara City, 2011), the 2012 implementation of search check points that targeted males ages 15 – 60 that commonly resulted in arrest, torture and ill-treatment, governmental use of thermobaric bombs and missiles against schools and hospitals in 2012, aggressive campaigns utilizing barrel bombs in Aleppo city from 2012-2015, governmental use of barrel bombs containing chemical agents such as chlorine against citizens in Idlib and Hama in April of 2014, and immeasurable costs to human life throughout the ongoing conflict.²¹ Furthermore, the State of Syria's government has utilized these strikes against citizens as a means to contain citizen who are perceived to be in opposition to the government.²²

In understanding the function of the HRC it is important to note that in accordance with A/RES/60/251, the Council was subjected to a performance and function review following its fifth functioning year which occurred in 2011. The purpose of this review was established in 2006 to allow the HRC to reflect on achievements, failures, properly function processes, processes that need to be refined, self-examination and public appraisal. Upon the review in 2011, the council, unfortunately, did not receive a stellar review, citing numerous problems such as in adequate resources as reported in A/HRC/WG.8/2/1.²³ The assessments however have allowed for the HRC to continue to maintain its promise to remain focused on providing protection and promotion of human rights around the world.

Member States currently represented in the Human Rights Council for SRMUN Atlanta 2017 are as follows:

ALBANIA, BANGLADESH, BELGIUM, BOLIVIA, BOTSWANA, BRAZIL, BURUNDI, CHINA, CONGO, COTE D'IVOIRE, CROATIA, CUBA, ECUADOR, EGYPT, EL SALVADOR, ETHIOPIA, GEORGIA, GERMANY, GHANA, HUNGARY, INDIA, INDONESIA, IRAQ, JAPAN, KENYA, KYRGYZSTAN, LATVIA,

15 "Human Rights Council Adopts Six Resolutions and Closes Its Thirty-first Regular Session." *OHCHR / Human Rights Council*. Office of the High Commissioner on Human Rights, 24 Mar. 2016. Web. 23 May 2017.

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18535&LangID=E>>.

16 "Resolutions and Decisions of the Human Rights Council." *OHCHR / Resolutions and Decisions on the Mandate*. Office of the High Commissioner on Human Rights, 2016. Web. 23 May 2017.

<<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Resolutions.aspx>>.

17 Ibid.

18 "A/HRC/RES/33/24." Situation of Human Rights in Burundi • Human Rights Reports. United Nations, 5 Oct. 2016. Web. 12 May 2017. <<https://hr-reports.uwazi.io/en/document/c783cq0jimyps8hjpbs1kxm6r>>.

19 "COMMISSION OF INQUIRY ON BURUNDI." Terms of Reference (n.d.): n. pag. Office of the High Commissioner of Human Rights, 27 Feb. 2017. Web. 12 May 2017.

<<http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIBurundi/TermsOfReferenceCOIBurundiENGL.pdf>>.

20 "Resolution Adopted by the Human Rights Council at Its Seventeenth Special Session." S-17/1. Situation of Human Rights in the Syrian Arab Republic (n.d.): n. pag. Office of the High Commissioner of Human Rights, June 2011. Web. 12 May 2017. <http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17_1.pdf>.

21 "Documentation." Independent International Commission of Inquiry on the Syrian Arab Republic. Office of the High Commissioner of Human Rights, n.d. Web. 12 May 2017.

<<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>>.

22 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/019/37/PDF/G1501937.pdf?OpenElement>

23 <https://www.hrw.org/report/2010/06/24/curing-selectivity-syndrome/2011-review-human-rights-council#page>

MONGOLIA, NETHERLANDS, NIGERIA, PANAMA, PARAGUAY, PHILLIPPINES, PORTUGAL, QATAR, REPUBLIC OF KOREA, RWANDA, SAUDI ARABIA, SLOVENIA, SOUTH AFRICA, SWITZERLAND, TOGO, TUNISIA, UNITED ARAB EMIRATES, UNITED KINGDOM OF GREAT BRITIAN AND NORTHERN IRELAND, UNITED STATES OF AMERICA, VENEZUELA.

I: Protecting and Promoting the Human Rights of Migrant Domestic Workers

“The Universal Declaration of Human Rights and the core international human rights treaties provide a broad framework for non-discrimination and protection of the human rights of all human beings, including migrants, both regular and irregular, and their rights at work.”
-Human Rights Council (HRC) Resolution A/HRC/26/35²⁴

Introduction

According to a 2015 United Nations Human Rights Office of the High Commissioner publication entitled *Behind Closed Doors Protecting and Promoting the Human Rights of Migrant Domestic Workers in an Irregular Situation*, more than 50 million people globally were reported to be domestic workers,²⁵ and an additional 11.5 million individuals are classified as Migrant Domestic Workers.²⁶ During the 2011 Domestic Workers Convention in Geneva, the International Labour Organization (ILO) defined domestic labor as “work performed in or for a household or households” and a Domestic Worker as “any person engaged in domestic work within an employment relationship.”²⁷ The HRC encompasses each of these definitions when referring to the protections of Migrant Domestic Workers in Resolution A/HRC/26/35 as they fall under the protections of human rights in regards to their work, regardless of the condition of their situation.²⁸ The vast majority of Domestic Workers are women. In fact, UN Women reported in 2016 that one in every 25 female wage earners working internationally are domestic workers.²⁹ The Domestic Workers Convention stated that duties include, but are not limited to: caring for the home, proving home health care, looking after children, caring for the elderly, and driving for others.³⁰ They are commonly occupied as cooks, health aids, chauffeurs, greenkeepers and personal assistants.³¹

²⁴ A/HRC/26/35 (2014): n. pag. Human Rights Council. Office of the High Commissioner of Human Rights, 3 Apr. 2014. Web. 14 May 2017. <<http://www.ohchr.org/Documents/Issues/SRMigrants/A.HRC.26.35.pdf>>.

²⁵ *Behind Closed Doors Protecting and Promoting the Human Rights of Migrant Domestic Workers in an Irregular Situation*. Publication. United Nations, 2015. Web. 4 Apr. 2017. <http://www.ohchr.org/Documents/Publications/Behind_closed_doors_HR_PUB_15_4_EN.pdf>.

²⁶ “Migrant Domestic Workers: Overworked and Under protected.” *Human Rights Watch*. Human Rights Watch, 15 June 2016. Web. 07 Apr. 2017. <<https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>>

²⁷ “C189 - Domestic Workers Convention, 2011 (No. 189).” *Convention C189 - Domestic Workers Convention, 2011 (No. 189)*. International Labour Organization, n.d. Web. 07 Apr. 2017. <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CO DE%3AC189>

²⁸ A/HRC/26/35 (2014): n. pag. Human Rights Council. Office of the High Commissioner of Human Rights, 3 Apr. 2014. Web. 14 May 2017. <<http://www.ohchr.org/Documents/Issues/SRMigrants/A.HRC.26.35.pdf>>.

²⁹ Infographic: Migrant Domestic Workers - Facts Everyone Should Know.” *UN Women*, United Nations, www.unwomen.org/en/digital-library/multimedia/2016/9/infographic-migrant-domestic-workers.

³⁰ C189 - Domestic Workers Convention, 2011 (No. 189).” *Convention C189 - Domestic Workers Convention, 2011 (No. 189)*. International Labour Organization, n.d. Web. 07 Apr. 2017. <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CO DE%3AC189>

³¹ “The Feminist Sexual Ethics Project.” Domestic & Migrant Workers | The Feminist Sexual Ethics Project | Brandeis University, Brandeis University, www.brandeis.edu/projects/fse/slavery/contemporary/essay-domestic-migrant-workers.html.

Migrant Domestic Workers are often over-looked and left unprotected by labor legislation that solely focuses on protections of the traditional worker.³² As a result of this oversight, Migrant Domestic Workers are commonly subjected to a multitude of abuses and human rights violations. These acts against Migrant Domestic Workers can include, but are not limited to: violations of dignity, lack of access to health care, limitations on the right to family life, inadequate housing, food, water and sanitation, restrictions on freedom of movement, labor exploitation and slavery like practices, detention and deportation, and gaps in legal protections.³³

History

The United Nations (UN) first addressed the rights of Migrant Domestic Workers in 1990 during the 69th meeting of the Plenary. Here the General Assembly (GA) passed Resolution 45/158, which called for the protection of the rights of all Migrant Workers and members of their families.³⁴ Twenty years following this call to action, the GA adopted Resolution 64/139, which focused on violence against female Migrant Workers on 18 December 2009.³⁵ This Document encouraged Member States to undertake greater measures in the protection of the rights of Migrant Domestic Workers, regardless of immigration status, in order to prevent exploitation and abuse. Furthermore, it urged Member States to ratify and sign the suggestions made by the ILO's International Convention on the Protection of the Rights of All Migrant Workers and their Families (ICRMW).³⁶ In comparison to previous treaties it is believed that ICRMW is only ratified by 47 Member States because many Member States feel as though they are not bound by article 92, paragraph 1, which states:

“...Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court...”³⁷

In 2002, the ILO also released a document concerning decent work and the informal economy.³⁸ In this document, the ILO defined decent work as “conditions of freedom and dignity, of economic security, and equal opportunity”³⁹ and the informal economy as the “informal sector.” The informal economy is referenced to as the informal sector because the workers and enterprises in question do not fall within any one sector of the economic activity, but cut across many sectors.⁴⁰

Two of the most substantive conventions on migrants and domestic laborers are C143 and C097. C143 is the 143rd Convention concerning migrants in abusive conditions and the promotions of equality. Convention 143 has only been ratified by 23 Member States to date.⁴¹ C097, Migrant for Employment Convention, has been ratified by 49

³² C189 - Domestic Workers Convention, 2011 (No. 189)." *Convention C189 - Domestic Workers Convention, 2011 (No. 189)*. International Labour Organization, n.d. Web. 07 Apr. 2017. <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CO DE%3AC189>

³³ Ibid.

³⁴ "A/RES/45/158. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families." *United Nations*. United Nations, n.d. Web. 07 Apr. 2017. <<http://www.un.org/documents/ga/res/45/a45r158.htm>>

³⁵ "A/RES/64/139 Violence against Women Migrant Workers." *Resolution Adopted by the General Assembly (2010): n. pag.* *International Organization for Migration*. United Nations, 6 Feb. 2010. Web. 6 Apr. 2017. <https://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/64/a-res-64-139.pdf>

³⁶ Ibid.

³⁷ "International Convention on the Protection of the Rights of All Migrant Workers." *OHCHR*, OHCHR, www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx.

³⁸ "Decent Work, Risk and the Informal Sector." *Key Concepts in Development Geography*(n.d.): 132-41. *International Labour Organization*. International Labour Organization. Web. 7 Apr. 2017. <http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_098314.pdf>

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ "Ratifications of C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)." *Ratifications of ILO Conventions: Ratifications by Convention*. International Labour Organization, n.d. Web. 23 July 2017.

Member States to date. While the ILO currently has 186 acting Member States, the limited number of ratifications on both of these documents should be noted.⁴²

Reasons for Migration

In order to adequately understand why Migrant Domestic Workers face the violations and the conditions they are subject to, we must also know why they have migrated to a different host Member State to begin with. Many of the workers who are mentioned throughout this document, specifically those located in Asia and Africa, were recruited on the promise that working as a Migrant Domestic Worker would provide an easier route out of poverty,⁴³ and a means to clothe, feed, and educate their children while they raise the children of their employers in many cases.⁴⁴ Many also choose to migrate for domestic labor as a result of promises such as education, better home life, and medical care.

Vulnerable Groups of Migrant Workers

Migrant Domestic workers are largely composed of women. According to UN Women, out of all Migrant Workers, 44.3 percent are female.⁴⁵ More specifically, of all Domestic Workers worldwide, 81.5 percent are female and 73.4 percent of all Migrant Domestic Workers are female.⁴⁶ These women have been subjected to a multitude of human rights violations in a system that has been attributed to ‘modern-day-slavery.’⁴⁷ First hand recounts by those victimized by this system shared the conditions they endure, which include: sleeping in kitchens, storage rooms, or open living rooms; being starved when they make mistakes; being fed left overs and scraps; restricting outside communication; sexual abuse and sexual harassment, assault and rape.⁴⁸ Many children have also fallen victim to domestic work as well. Convention 182 of the ILO identified this as one of the most hazardous forms of work children and cited reasons such as:

“...long and tiring working days; use of toxic chemicals; carrying heavy loads; handling dangerous items such as knives, axes and hot pans; insufficient or inadequate food and accommodation, and humiliating or degrading treatment including physical and verbal violence, and sexual abuse. The risks are compounded when a child lives in the household where he or she works as a domestic worker...”⁴⁹

Furthermore, another concern surrounding children in domestic work is that they may never have adequate access to education or vocational training during their employment or later in life.⁵⁰

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A11300%3A0%3A%3ANO%3A%3AP11300_INSTRUMENT_ID%3A312288.

⁴² "Ratifications of C097 - Migration for Employment Convention (Revised), 1949 (No. 97)." *Ratifications of ILO Conventions: Ratifications by Convention*. International Labour Organization, n.d. Web. 23 July 2017.

http://www.ilo.org/dyn/normlex/en/f?p=1000%3A11300%3A0%3A%3ANO%3A11300%3AP11300_INSTRUMENT_ID%3A312242.

⁴³ “‘I Already Bought You.’” *Human Rights Watch*, Human Rights Watch, 15 June 2015, www.hrw.org/report/2014/10/22/i-already-bought-you/abuse-and-exploitation-female-migrant-domestic-workers-united.

⁴⁴ “Migrant Domestic Workers: Overworked and Underprotected.” *Human Rights Watch*, Human Rights Watch, 15 June 2016, www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected.

⁴⁵ "Infographic: Migrant Domestic Workers - Facts Everyone Should Know." *UN Women*. UN Women, 2014. Web. 23 July 2017. <<http://www.unwomen.org/en/digital-library/multimedia/2016/9/infographic-migrant-domestic-workers>>.

⁴⁶ Ibid.

⁴⁷ "Understanding Kafala: An Archaic Law at Cross Purposes with Modern Development." *Advancing the Rights of Migrant Workers throughout the Middle East*. Migrant Rights, 11 May 2015. Web. 07 Apr. 2017. <<https://www.migrant-rights.org/2015/03/understanding-kafala-an-archaic-law-at-cross-purposes-with-modern-development/>>

⁴⁸ Ibid.

⁴⁹ “Child Labour and Domestic Work.” *International Labour Organization*, International Labour Organization, www.ilo.org/ipecc/areas/Childdomesticlabour/lang--en/index.htm.

⁵⁰ Ibid.

The Kafala System and Migrant Domestic Workers

There is a growing crisis for Migrant Domestic Workers located within the Member States that make up the Gulf Cooperation Council (GCC): Bahrain, Kuwait, Oman, Saudi Arabia, and The United Arab Emirates. According to a document published by Human Rights Watch, a Non-Governmental Organization (NGO) committed to defending human rights around the world, two million of the 11.5 million Migrant Domestic Workers worldwide reside in the GCC.⁵¹ The GCC currently operates under the Kafala System or Sponsorship System, which was defined by the HRC in 2015 as a system “used to regulate the relationship between employers and migrants with a work permit linked to a single person, the sponsor, who is often the employer.”⁵² The HRC Report also explained how this system results in Migrant Workers typically operating in irregular and abusive situations. It states:

“Sponsors are empowered by the Sponsorship Law to prevent migrants from changing employers and from leaving Qatar. The Kafala system enables unscrupulous employers to exploit employees. Frequent cases of abuse against migrants include the confiscation of passports, refusal to give “no objection” certificates (allowing migrants to change employer) or exit permits and refusal to pay migrants’ plane tickets to return home. Some employers do not extend residence permits for their employees, often because of the fees incurred. This leads to migrants ending up in an irregular situation, with no valid identity card, despite the fact that they are regularly employed.”⁵³

In 2016, the labor laws in Qatar underwent a series of overhauls which eventually led to the supposed elimination of the Kafala System. Instead of reforming Kafala as called for by the ILO and UN, the government of Qatar simply renamed the system by removing the term ‘sponsor,’ but left the primary principles and practices intact.⁵⁴ Under the claimed reforms, if a Migrant Worker’s contract does not specify a specific time frame of employment, then they will be required to work for the Sponsor, now referred to as a Recruiter, for five years.⁵⁵ Additionally, in order to depart from their Recruiter, workers will need to obtain a No Objection Certificate and permission from an additional competent authority, which is a “person or organization that has legally delegated or invested authority, capacity or power to perform a designated function.”⁵⁶

Similarly, within the government of India is this same long standing practice in which the competent authority, as mentioned in the previous example, is considered to be the Divisional P&A Department and their individual management.⁵⁷ The greatest hindrance of progression in this new set of reforms is that none of the reforms specifically address Migrant Domestic Workers, because many of them only apply to Domestic Workers who are documented and working legally within the Member State. Legislation regarding domestic workers, is still in draft form within the aforementioned governments.⁵⁸

Recruitment Practices Directed Toward Migrant Domestic Workers in Sri Lanka

Sri Lanka is a labor exporting Member State, due to its small labor market.⁵⁹ In 2014, out of the 8.4 million employed Sri Lankan citizens, 60 percent were employed in the informal sector and approximately 1.8 million

⁵¹ "Migrant Domestic Workers: Overworked and Underprotected." *Human Rights Watch*. Human Rights Watch, 15 June 2016. Web. 07 Apr. 2017. <https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>

⁵² "Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau." Mission to Qatar (2014): n. pag. Human Rights Council. Office of the High Commissioner of Human Rights, 23 Apr. 2014. Web. 13 May 2017. <http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf>.

⁵³ Ibid.

⁵⁴ "Qatar: Labor Reforms Leave Abusive System Intact." *Human Rights Watch*. N.p., 12 Jan. 2017. Web. 28 June 2017. <<https://www.hrw.org/news/2017/01/12/qatar-labor-reforms-leave-abusive-system-intact>>.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ NO OBJECTION CERTIFICATE FOR OBTAINING PASSPORT & PROCEEDING ABROAD 3rd ser. 2 (n.d.): 103. BDL-India. BDL-India. Web. 23 July 2017. <<http://bdl-india.com/sites/default/files/BDL%20Manuals/22%20NOC%20for%20Passport.pdf>>.

⁵⁸ Ibid.

⁵⁹ "Sri Lanka - Labor." Sri Lanka Country Commercial Guide. International Trade Administration, 15 Aug. 2016. Web. 14 May 2017. <<https://www.export.gov/article?id=Sri-Lanka-Labor>>.

worked abroad.⁶⁰ For workers who remain in Sri Lanka, they are protected by strict labor laws enforced by the government; the Member State of Sri Lanka has ratified 31 of the ILO's convention outcomes.⁶¹ However, those who opt to seek employment in other Member States are not covered under the same protections.

Many Migrant Domestic Workers, especially in Sri Lanka, relocate to their migrant Member States by means of an agency. In general, agencies in labor-sending countries utilize recruiters to match workers with sponsors. In 2013, the ILO released a document entitled *Recruitment Practices of Employment Agencies Recruiting Migrant Workers; A review aimed at improving recruitment regulations and drafting recruitment guidelines*⁶² which reviewed the specific reformatations made to recruitment practices for Migrant Workers and labor exports, specifically in Sri Lanka and the Maldives. In 2010, 160,697 of the 266,445 people placed in overseas jobs went through a private agency.⁶³ The remaining laborers were placed by personal contacts or employees that the agent knew directly. For many, this option is more attractive because they can avoid the fees that agencies charge for placement. However, when employment is established through a personal contact, the Migrant Worker loses protections such as:

“...a person other than the Bureau shall not carry on the business of a foreign employment agency without a license issued under the provisions of the Act’ (Act.24.1)”⁶⁴

“...the agent has to submit details of the prospective employer, copy of the agreement between the agent and such employer on recruitment of persons, nature of employment and the terms and conditions under which the worker is recruited (Sec.37.2).”⁶⁵

Furthermore, 26.1 percent of Sri Lankan migrants were working in Saudi Arabia in 2010, 18.05 percent of them working in Kuwait, 15.79 percent in the United Arab Emirates, and 20.13 percent in Qatar.⁶⁶ The greatest concern surrounding export labor is, as mentioned previously, that these four GCC countries operate through the Kafala Sponsorship System.⁶⁷

Conclusion

Migrant Domestic Workers make up a vast majority of the economy throughout the world, but are primarily concentrated within the Middle East and Gulf Cooperation Council Member States.⁶⁸ There are approximately 50 million domestic workers and 11.5 migrant million domestic workers globally⁶⁹ that face numerous human rights violations daily as they seek to earn a living for themselves and their families. Over the last 30 years, the UN and ILO have released numerous convention documents that still have not been ratified by the aforementioned Member States.⁷⁰ It is the responsibility of the UN and the HRC to ensure that all Domestic Workers and Migrant Domestic

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² "Recruitment Practices of Employment Agencies Recruiting Migrant Workers, A Review Aimed at Improving Recruitment Regulations and Drafting Recruitment Guidelines." International Labour Organization. International Labour Organization, Mar. 2013. Web. 14 May 2017. <http://apmigration.ilo.org/resources/recruitment-practices-of-employment-agencies-recruiting-migrant-workers/at_download/file1.>.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ "Migrant Domestic Workers: Overworked and Underprotected." *Human Rights Watch*. Human Rights Watch, 15 June 2016. Web. 07 Apr. 2017. <https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>

⁶⁸ "Domestic Workers: Size, Contributions and Challenges ." *Domestic Workers: Size, Contributions and Challenges | WIEGO*, Domestic Workers: Size, Contributions and Challenges | WIEGO, www.wiego.org/informal-economy/occupational-groups/domestic-workers.

⁶⁹ "Migrant Domestic Workers: Overworked and Under protected." *Human Rights Watch*. Human Rights Watch, 15 June 2016. Web. 07 Apr. 2017. <<https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>>

⁷⁰ "Up-to-date Conventions and Protocols Not Ratified by Qatar." International Labor Organization. International Labor Organization, 2016. Web. 14 May 2017. <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A11210%3A0%3A%3ANO%3A%3AP11210_COUNT_RY_ID%3A103429>.

Workers are offered the opportunity to have decent work in a formalized economy, and to be protected under basic labor legislation.

Committee Directives

Human Rights Council delegates are expected to be well informed on the topic of Migrant Domestic workers. Delegates, in both their preparations and during committee session, should consider the following questions; which Member States have populations of workers who may resolve to domestic labor as a migrant (i.e. sole bread winners, women from impoverished communities, lack of marketable skills, poverty in rural areas that push workers to more urban areas)? Which Member States employ the greatest number of Migrant Domestic Workers? What is the average daily amount of labor these workers complete, in comparison to their average compensation? Delegates should also explore methods of properly reforming the Kafala system and creating an adequate process of registration and obtaining visas for Migrant Workers. Furthermore, delegates should determine if the current definitions by the ILO and UN pertaining to domestic workers, decent work and Migrant Domestic Workers are sufficient.

II. Combating Human Trafficking Among Refugees and Displaced Persons

“The Islamic State didn’t come to kill the women and girls, but to use us as spoils of war, as objects to be sold...or to be gifted for free”

-Nadia Murad Basee Taha, a Yezidi survivor of human trafficking as presented at the United Nations Security Council’s (UNSC) first session to address human trafficking in 2015.⁷¹

Introduction

According to Article 3, paragraph (a) of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, human trafficking is defined as:

“the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or service slavery or practices like slavery, servitude or the removal of organs.”⁷²

Based on the definition above, trafficking can be divided into three segments; the act (what is done), the means (how is it done), and the purpose (why is it done). It is important to note that trafficking is considered a process with multiple actions intertwined; it is not a single act, meaning these are premeditated. Likewise, it is crucial to know the difference between a refugee and a displaced person to understand the implications of each within international law. According to the 1951 Convention on Human Rights, a refugee is a person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his national and is unable, or owing to such a fear, is unwilling to avail himself of the protection of that country.”⁷³ On the contrary, according to the ‘Guiding Principles on Internal Displacement,’ internally displaced persons are “persons or a group of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural of human-made disaster and who have not crossed an internationally recognized border.”⁷⁴

⁷¹ *Human Trafficking in Conflicting Zones*. U.S. Department of State. U.S. Department of State, 30 June 2016. Web. 6 April 2017. <https://2009-2017.state.gov/j/tip/rls/fs/2016/259137.htm>.

⁷² *Human Trafficking*. United Nations Office on Drugs and Crime. Web. 13 May 2017.

⁷³ *Questions and Answers about IDPs*. United Nations Human Rights Office of the High Commissioner. Web. 20 July 2017. <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Issues.aspx>.

⁷⁴ Ibid.

Smuggling rings and trafficking rings are closely related, both preying on the vulnerabilities of people seeking international protection or access to better financial gains abroad.⁷⁵ “Human trafficking and human smuggling are distinct criminal activities; the terms are not interchangeable. Human trafficking centers on exploitation”⁷⁶ whereas smuggling focuses on the transportation of people who are consenting and willing to flee to a destination country.⁷⁷ It should be noted, however, that those being trafficked can be influenced to give “consent,” which by result of intimidation and other misleading actions by the trafficker. Victims are treated as merchandise, “owned” by their traffickers, who have no regard of their human rights and human dignity.⁷⁸ Therefore, this is applicable to refugees because they are people who have crossed an international border and are at risk or have been victims of persecution in their country of origin. The same applies to internationally displaced persons, yet they have not fled international borders but have for some reason fled their homes. These positions in which refugees and Internally Displaced Peoples (IDPs) are subjected to leaves them defenseless against smugglers and traffickers.⁷⁹

History

While it is difficult to estimate human trafficking numbers due to its very discreet nature, the Global Report conducted by the International Labor Office (ILO) estimated 800,000 to 2.5 million persons are trafficked transnationally each year.⁸⁰ Human trafficking can be viewed in terms of “supply and demand” within a global market, even though human trafficking violates domestic and international laws. This is a growing, unlawful industry, generating USD 150 billion in illegal profits each year.⁸¹

The Office of the United Nations High Commissioner on Refugees (UNHCR) is committed to employing methods of early intervention and prevention in hopes to avoid serious threats to the human rights of the victims or whatever crimes human trafficking may entail.⁸² Governments can normally guaranteed basic human rights and physical security of their citizens. However, when civilians become refugees, that safety net disappears. The protection of refugees has many aspects. All aspects include the safety from being returned to the dangers they have fled; access to asylum procedures that are fair and efficient; measures to ensure that their basic human rights are respected, and to allow them to live with dignity and in safety while helping them to find a more durable, long-term solution.⁸³ Member States bear the primary responsibility for this protection, in line with their obligations under international refugee law. The Office of the UNHCR therefore works closely with governments, advising and supporting them as needed. This is particularly the case of asylum procedures through which refugee status is determined. When such procedures do not exist, the Office of the UNHCR has the authority to determine refugee status under its mandate. Non-government organizations (NGOs) also play an important role in defending the right of refugees and ensuring that standards are met. They not only include the major international NGOs but also a host of local organizations that are in daily contact with the refugees.⁸⁴ The Office of the UNHCR’s involvement with trafficking can be

⁷⁵ HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>.

⁷⁶ *Human Trafficking and Smuggling*. U.S. Immigration and Customs Enforcement, 16 January 2013. Web. 27 August 2017. <https://www.ice.gov/factsheets/human-trafficking>

⁷⁷ Ibid.

⁷⁸ HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>.

⁷⁹ *Refugees and Displaced Persons Protected Under International Humanitarian Law*. International Committee of the Red Cross, 29 October 2010. Web. 27 August 2017. <https://www.icrc.org/en/document/protected-persons/refugees-displaced-persons>.

⁸⁰ Saito, K., *International Protection for Trafficked Persons and Those Who Fear Being Trafficking*. The UN Refugee Agency Policy Development and Evaluation Service, Research Paper No. 149 (December 2007). Web. 21 June 2017. <http://www.unhcr.org/en-us/research/working/476652742/international-protection-trafficked-persons-fear-trafficked-kaori-saito.html>.

⁸¹ *What is Human Trafficking*. Human Trafficking Search. Web. 13 May 2017. <http://www.humantraffickingsearch.net/background/>.

⁸² *Human Trafficking and Refugee Protection: UNHCR’s Perspective*, The UN Refugee Agency (19-20 October 2009): 1-5. Web. 13 May 2017.

⁸³ *Protecting Refugees & the Role of the UNHCR*. UNHCR: The UN Refugee Agency, 2014. Web. 27 August 2017. <http://www.unhcr.org/en-us/about-us/background/509a836e9/protecting-refugees-role-unhcr.html>.

⁸⁴ Ibid.

grouped into two sections. First, the Office of the UNHCR has a responsibility to ensure that refugees, asylum-seekers, IDPs, stateless persons, and other persons of concern do not fall victim to trafficking.⁸⁵ In order to succeed in that, the Office of the UNHCR is involved in awareness-raising activities to publicize information among refugee populations and other persons of concern to alert them to the different modalities.⁸⁶ Second, the Office of the UNHCR has a responsibility to safeguard individuals who have been trafficked and who fear being subjected to persecution upon return to their Member State of origin. In order to safe-guard individuals, the Office of the UNHCR is involved in advocacy efforts, to promote asylum-sensitive anti-trafficking legislation and practice and the national level.⁸⁷ Further, the Office of the UNHCR must also defend those who fear being trafficked as well as those who are not necessarily recognized as refugees on a national level.⁸⁸ The Office of the UNHCR undertakes training and capacity building and provides support to national asylum authorities on refugee status determination, including through training on the Guidelines on the “Application of Article 1A(2) of the 1951 Convention or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked.”⁸⁹

The primary function of the Convention against Transnational Crime and its supplementary Protocols against Trafficking and Smuggling is crime control and protection.⁹⁰ The Office of the UNHCR’s activities in trafficking is based on the understanding that general protection measures are not suitable for victims fearing prosecution, human rights violations, or face the inability to return home.⁹¹ Trafficked persons need specific protection, as provided by the 1951 Convention which highlights protection against refoulement. Refoulement is considered the forcible return of refugees or asylum-seeking persons to a Member State where they are liable to be subjected to persecution.⁹² For the Office of the UNHCR to protect against refoulement, we shall look at the legal basis put forward by them. The principle of non-refoulement has been defined in several international instruments relating to refugees, both at the universal and regional levels. On the universal level, the first mention should be made of the 1951 United Nations Convention relating to the Status of Refugees, which, in Article 33(1) provides that:

“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race religion, nationality, membership of a particular social group of political opinion.”⁹³

On the regional level, Africa makes as a great example. The Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 gives expression in binding form to several important principles relating to asylum, including the principle of non-refoulement. According to Article III (3):

“No person may be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which should compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.”⁹⁴

While the principle of non-refoulement is universally recognized, the danger of refoulement could be avoided if concerned Member States accepted a formal legal obligation. This underlines the importance for further accessions to the 1951 Convention and pacts such as the OAU. Member States that have not yet acceded to these instruments should nevertheless apply the principle of non-refoulement in view of its universal acceptance and fundamental

⁸⁵ HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>.

⁸⁶ *Human Trafficking and Refugee Protection: UNHCR’s Perspective*, The UN Refugee Agency (19-20 October 2009): 1-5. Web. 13 May 2017.

⁸⁷ Ibid.

⁸⁸ HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ *Consideration on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR’S Mandate*. United Nations High Commissioner for Refugees, 25-27 March 2009. Web. 23 June 2017. <http://www.unhcr.org/en-us/publications/legal/4ae6b66e9/considerations-issue-human-trafficking-perspective-international-refugee.html>.

⁹² Ibid.

⁹³ *Note on Non-Refoulement*. UNHCR: The UN Refugee Agency, 23 August 1977. Web. 27 August 2017.

<http://www.unhcr.org/en-us/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html>.

⁹⁴ Ibid.

humanitarian standards.

Regionally, the Office of the UNHCR focuses on eight components to prevent human trafficking in the Americas. The first component is advocacy, handled by promoting asylum-sensitive, anti-trafficking legislation at the national level. The Office of the UNHCR advocates for the inclusion of specific provisions into that body of law to ensure the exercise of everyone's right, including trafficking victims, to seek asylum from persecution.⁹⁵ The Office of the UNHCR also advocates for the inclusion of international refugee law standards, where appropriate, in their work on trafficking.⁹⁶ Second, awareness-raising activities are used to broadcast information amongst refugee populations and other persons of concern to alert them on the varying modalities of human trafficking and their associated risks.⁹⁷ Third, the Office of the UNHCR studies risk assessments and monitors certain situations that could expose refugees to trafficking situations; situations such as isolation, persecution, and hunger which can lead someone to that of exploitation, abuse, and trafficking.⁹⁸ Fourth, in identifying trafficking victims, the UNHCR regularly undertakes training and border-monitoring missions to evaluate the arrival of refugees within migratory flows.⁹⁹ Fifth, the UNHCR has contributed to setting up informal referral mechanisms in partnership with national authorities. An example of mechanisms is the International Organization for Migrations (IOM), and civil society organization to ensure the protection and assistance of trafficking victims or individuals at risk of being trafficked. Sixth, the UNHCR is involved with training and capacity building efforts. They carry out training activities on its protection mandate and the refugee protection and human trafficking nexus addressed to a variety of actors including national authorities (migration officers police, military), international organizations and civil society organizations.¹⁰⁰ Seventh, to determine the status of a refugee, the UNHCR provides legal support to national asylum authorities. In order to be recognized as a refugee, one must go through Refugee Status Determinations, or RSD. This is the legal or administrative process by which governments or the Office of the UNHCR determines whether a person seeking international protection is considered a refugee under international, regional or national law. Member States have the primary responsibility for determining the status of asylum-seekers, by the Office of the UNHCR may do so where states are unable or unwilling.¹⁰¹ Lastly, resettlement which is the transfer of refugees from an asylum country to another Member State that has agreed to admit them and ultimately grant them permanent settlement, has proved to be an effective tool for trafficking victims. They then can be transferred to a third Member State to obtain additional effective protection, if necessary. Refugees that have been victims of trafficking or could be trafficked fall under the scope of resettlement criteria due to "physical and legal protection" and "women at risk."¹⁰²

General Assembly and Security Council Initiatives

The General Assembly has previously passed resolutions that have been monumental in the fight against human trafficking. A/RES/64/293, promotes and expresses the determination of the international community to prevent and combat human trafficking, while also protecting and assisting victims of trafficking within the realms of development, peace and security, and human rights.¹⁰³ Trafficking in women and girls is specifically mentioned in A/RES/61/144. It encourages governments and UN bodies to address women and girls, as well as encourages them to share their knowledge and best practices in preventing trafficking amongst that population.¹⁰⁴ It also calls for

⁹⁵ *Consideration on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR'S Mandate.* United Nations High Commissioner for Refugees, 25-27 March 2009. Web. 23 June 2017. <http://www.unhcr.org/en-us/publications/legal/4ae6b66e9/considerations-issue-human-trafficking-perspective-international-refugee.html>.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ *Refugee Status Determination.* UNHCR: The UN Refugee Agency. Web. 28 August 2017. <http://www.unhcr.org/en-us/refugee-status-determination.html>.

¹⁰² *Consideration on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR'S Mandate.* United Nations High Commissioner for Refugees, 25-27 March 2009. Web. 23 June 2017. <http://www.unhcr.org/en-us/publications/legal/4ae6b66e9/considerations-issue-human-trafficking-perspective-international-refugee.html>.

¹⁰³ A/RES/64/293 *United Nations Global Plan of Action to Combat Trafficking in Persons.* United Nations. United Nations, 12 August 2010. Web. 12 May 2017. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/293.

¹⁰⁴ A/RES/61/144 *Trafficking in Women and Girls.* United Nations General Assembly. United Nations. 1 February 2007. Web. 23 June 2017. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/61/144&Lang=E.

governments to take the appropriate measures when addressing certain factors that increase the vulnerability for women and girls.¹⁰⁵ In order to combat the trafficking of women and children, the Commission on Human Rights adopted decision 2004/110, which it decided to appoint, for a three-year period, a Special Rapporteur on trafficking in persons. The Special Rapporteur focuses on the human rights aspects of the victims of trafficking in persons.¹⁰⁶ In the same decision, the Commission invited the Special Rapporteur to submit annual reports to the Commission together with recommendations on measures required to uphold and protect the human rights of the victims. In July 2014, the mandate of the Special Rapporteur has been extended for another three years by the Human Rights Council resolution 26/8. In the discharge of his/her mandate, the Special Rapporteur was required to: take action on violations committed against trafficked persons and on situations in which there has been a failure to protect their human rights; undertake country visits in order to study the situation in situ and formulate recommendations to prevent and or combat trafficking and protect the human rights of its victims in specific countries and/or regions, and submit annual reports on the activities of the mandate

A few years later, the UN Security Council (UNSC) unanimously adopted resolution SC/2331(2016) which specifically condemns the sale of, or trade in, persons seized by Islamic State in Iraq and the Levant, including Yazidis and persons belonging to religious and ethnic minorities.¹⁰⁷ The Resolution also included persons trafficked by Boko Haram, Al-Shabaab, the Lord's Resistance Army (LRA) and other groups for purposes of sexual slavery, and exploitation and forced labor. This resolution stressed that human trafficking contributed to other forms of transnational organized crime, which could aggravate conflict and foster insecurity and instability.¹⁰⁸ The Security Council stressed that acts of human trafficking during armed conflict as well as sexual and gender-based violence could be part of the strategic objectives and ideologies of certain terrorist groups by, among other things, incentivizing recruitment, supporting financing through the sale of women, girls and boys, and use of religious justifications to codify and institutionalize sexual slavery. It called upon Member States to investigate, disturb and dismantle the networks involved.¹⁰⁹ The Security Council encouraged Member States to build strong partnerships with the private sector and civil society, including local women's organizations, and encouraged the Financial Action Task Force (FATF) and regional bodies to include analyses of financial movements associated with human trafficking that financed terrorism.¹¹⁰ It affirmed that victims of trafficking and sexual violence should be classified as victims of terrorism. The council further expressed its intention to consider imposing targeted sanctions on individuals and entities involved in human trafficking in conflict-affected areas.¹¹¹

Persecution, Conventional Grounds and Armed Conflict

Agents of persecution is a person or thing that takes an active role in hostilities or ill-treatment and can be considered both State and non-State actors. Even though these actions can be perpetrated by individuals, authorities of a Member State can also be at fault if actions are "knowingly tolerated by the authorities or if the authorities refuse, or prove unable to offer effective protection."¹¹² As a result, it is necessary to examine whether authorities of the Member State of origin are able and willing to protect the victim or potential victim. Victims of human trafficking have small windows of opportunity to escape their trafficker and search for international protection.¹¹³ However, the concern with these trafficked persons is whether they have a "well-founded fear of persecution;" the rationality for many who fear harm if they had to return to their home Member State.¹¹⁴ Typically, these reasons

¹⁰⁵ Ibid.

¹⁰⁶ Special Rapporteur on Trafficking in Persons, Especially Women and Children. United Nations Human Rights: Office of the High Commissioner. Web. 27 August 2017. <http://www.ohchr.org/EN/Issues/Trafficking/Pages/TraffickingIndex.aspx>.

¹⁰⁷ SC/12647 Security Council Condemns Human Trafficking in Strongest Terms, Unanimously Adopting Resolution 2331. United Nations. United Nations, 20 December 2016. Web. 6 April 2017.

¹⁰⁸ Security Council Condemns Human Trafficking in Strongest Terms, Unanimously Adopting Resolution 2331(2016). Meetings Coverage and Press Releases. United Nations, 20 December 2016. Web. 28 August 2017. <https://www.un.org/press/en/2016/sc12647.doc.htm>.

¹⁰⁹ Ibid

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>.

¹¹³ Ibid.

¹¹⁴ Ibid.

include race, religion, nationality, or membership of a specific social group or political affiliation. Since trafficking has become so lucrative throughout the global market, the motivation is more centered on profit, rather than persecution. Yet, these conventions still constitute refugee status.

Armed conflict increases the risks of human trafficking for vulnerable populations by an increasing economic burden (individuals job, living necessities), weakening rule of law, decreasing availability of social services, and forcing people to flee for safety.¹¹⁵ Conflict can break down governmental institutions and create an environment in which trafficking is encouraged and traffickers can operate without repercussions.¹¹⁶ Armed conflict usually flourishes within environments such as those with broken governments, a non-existent job market, and a non-existent society; all of which would normally offer protection to their citizens if this crime arose.¹¹⁷ In order for conflict to cease in a Member State, civilians must have help from international organizations or international military force such as peacekeeping missions. However, some peacekeeping missions cause more problems with trafficking. An example of this can be seen in the United Nations Mission to Kosovo (UNMIK), which represents the largest Peacekeeping Operation ever undertaken by the UN. A force of approximately 20,000 peacekeeping troops were deployed to protect a civilian population from collateral damage in a simmering war between the Kosovo Liberation Army and the Federal Republic Yugoslavia.¹¹⁸ In months after the deployment, international human rights organizations began taking note of large increases in human trafficking to the region. Scholars claimed that peacekeeping and NATO troops in the region participated in human trafficking themselves by using girls for personal sexual activity.¹¹⁹

Case Study: The United Nations Mission to Kosovo

The United Nations Mission to Kosovo (UNMIK) was established in June of 1999; it marked an end to the North Atlantic Treaty Organization's (NATO) intervention in Kosovo that was deployed due to alleged massive human rights violations.¹²⁰ Those violations allegedly occurred by the Serbian authorities, the clashes between the Kosovo Liberation Army (KLA) and the Yugoslav forces, and the massive deportations of Kosovo Albanians by the latter.¹²¹ The Security Council, with Resolution 1244 of 10 June 1999, authorized Member States to establish a security presence to discourage hostilities, demilitarize the KLA, and enable the return of refugees. S/RES/1244 states that its aim was "to resolve the grave humanitarian situation in Kosovo, Federal Republic of Yugoslavia, and to provide for the safe and free return of all refugees and displaced persons to their homes."¹²² It asked the Secretary-General to establish an international presence in Kosovo – the United Nations Mission to Kosovo – to provide a temporary administration for Kosovo under which the people could enjoy significant autonomy. The UNMIK presence was immediately established on the ground.¹²³ With the presence of UNMIK, and the Kosovo Protection Force (KFOR), along with others international organizations, the large foreign force brought with it a demand for prostitution that far exceeded the local demand. In the months following the KFOR deployment, international human rights organizations began noting large and dramatic increases in human trafficking to the region. What once had been a small-scale prostitution market now became a professionalized operation run by criminal networks. The United Nations Development Fund for Women determined that the four geographic areas with large numbers of peacekeeping troops were responsible for the increase, and that those troops were the primary source of the trafficking.

¹¹⁵ *Human Trafficking in Conflicting Zones*. U.S. Department of State. U.S. Department of State, 30 June 2016. Web. 6 April 2017. <https://2009-2017.state.gov/j/tip/rls/fs/2016/259137.htm>.

¹¹⁶ *Human Trafficking in Conflicting Zones*. U.S. Department of State. U.S. Department of State, 30 June 2016. Web. 6 April 2017. <https://2009-2017.state.gov/j/tip/rls/fs/2016/259137.htm>.

¹¹⁷ Ibid.

¹¹⁸ Smith, C.A., & Miller-de la Cuesta, *Human Trafficking in Conflict Zones: The Role of Peacekeepers in the Formation of Networks*. Human Rights Review 12.3 (2011): 287-299. Web. 6 April 2017

¹¹⁹ Ibid.

¹²⁰ *UNMIK: United Nations Interim Administration Mission in Kosovo*. United Nations Peacekeeping. Web. 19 June 2017. <http://www.un.org/en/peacekeeping/missions/unmik/background.shtml>.

¹²¹ Ibid.

¹²² S/RES/1244 Adopted by the Security Council at its 4011th meeting, on 10 June 1999. United Nations Security Council. 10 June 1999. Web. 19 July 2017. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>.

¹²³ *UNMIK: United Nations Interim Administration Mission in Kosovo*. United Nations Peacekeeping. Web. 19 June 2017. <http://www.un.org/en/peacekeeping/missions/unmik/background.shtml>.

International Response

The global community has been gaining momentum to combat human trafficking. Beginning in 1990, The *International Convention on the Protection of the Rights of All Migrant Workers and Member of their Families* established the framework for protecting those who come abroad to work.¹²⁴ The U.S. Department of State Office to Monitor and Combat Trafficking in Persons published its seventh annual report, *Trafficking in Persons Report*, in June 2007.¹²⁵ Even though human trafficking is just one area of transnational organized crime, this act can strike at the very heart of national sovereignty.¹²⁶ The hinterland and borders of the European Union are known to be flooded by several trafficking and smuggling routes that have grown according to factors such as geographical position, distance between countries of departure and destination, political situation and law enforcement efforts in different areas, as well as corruption.¹²⁷ Although the European Union (EU) is the destination for many trafficking and smuggling routes in Europe, it is not exclusive. There are large amounts of trafficking in the Balkans region, as well as smuggling networks that lead from the United Kingdom, Germany, the Netherlands, and France to destinations in North America.¹²⁸

A current national legal framework enacted in Guatemala, the *2009 Act Against Sexual Violence, Exploitation and Trafficking in Persons* contains important asylum-seeking provisions. This Act specifies that the return process for trafficking victims should be undertaken “without prejudice to the right to asylum” (Article 16 and 17).¹²⁹ It also outlines that trafficking victims “have the right to information on their rights and services available to them.”¹³⁰ In the Americas (particularly Canada, Costa Rica, and the United States), there has been significant developments in the application of the refugee definition to trafficking victims. Recent judicial decisions exist and are based off of these following aspects: “the persecutory character of human trafficking for the purpose of the recognition of refugee status;¹³¹ understanding that in certain circumstances, the risk of re-victimization faced by trafficking victims upon return to the Member State of origin constitution in and of itself a persecutory act; the recognition that the non-state actors involved in trafficking situation (members of criminal organizations, relatives of the victim) can act as agents of persecution; lastly, human trafficking could be linked to the victim’s political opinion, or membership of a particular social group.”¹³² In 2002, the European Union adopted an important framework decision on the subject aimed at strengthening the cooperation among EU Member States. These regional developments have supported national efforts to ensure inter alia the protection of victims of trafficking human beings.¹³³

Conclusion

Trafficking is a serious human rights violation, which includes rape, servitude, and forced labor. It is important that outlets are put into place at the national level to provide physical, psychological and, social recovery for victims of trafficking. Victims of trafficking should be granted access to a fair and efficient asylum procedure after they have

¹²⁴ Smith, C.A., & Miller-de la Cuesta, *Human Trafficking in Conflict Zones: The Role of Peacekeepers in the Formation of Networks*. Human Rights Review 12.3 (2011): 287-299. Web. 6 April 2017

¹²⁵ Saito, K., *International Protection for Trafficked Persons and Those Who Fear Being Trafficking*. The UN Refugee Agency Policy Development and Evaluation Service, Research Paper No. 149 (December 2007). Web. 21 June 2017. <http://www.unhcr.org/en-us/research/working/476652742/international-protection-trafficked-persons-fear-trafficked-kaori-saito.html>

¹²⁶ Morrison, J., and Beth Crosland. *The Trafficking and Smuggling of Refugees: The End Game in European Asylum Policy?* New Issues of Refugee Search, Working Paper No. 39, April 2001

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ *Consideration on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR’S Mandate*. United Nations High Commissioner for Refugees, 25-27 March 2009. Web. 23 June 2017. <http://www.unhcr.org/en-us/publications/legal/4ae6b66e9/considerations-issue-human-trafficking-perspective-international-refugee.html>.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ *Human Trafficking and Refugee Protection: UNHCR ‘s Perspective*, The UN Refugee Agency (19-20 October 2009): 1-5. Web. 13 May 2017.

suffered.¹³⁴ It is a Member States' responsibility to prevent human violations from happening and protect those affected by this serious violation. The Office of the UNHCR is committed to focus on and improve the protection of trafficking persons. The Office of the UNHCR has issued these recommendations to strengthen assistance efforts: toughen legal and institutional framework, fortify training programs for national asylum authorities, think about the needs of the victims, include a module on International Refugee Law in the national professional training program on human trafficking and lastly, establish specific safeguards for the protection of child-aged victims of trafficking.¹³⁵

Committee Directives

Delegates should remember and consider that not all Member States have the proper tools, policies, and/or stable governments to combat human trafficking alone. Delegates should keep in mind during committee that specifically women and children are vulnerable and need the protection of the international community. Are there any Member States who have already collaborated and made significant progress combating human trafficking? Are there any Member States that have focused on policies for children and women who are victims? Furthermore, delegates should consider cases of human trafficking within their own nation, what has been done thus far? How has this influenced their society? Have there been any peacekeeping missions that were unsuccessful and unintendedly ignited negative consequences? To conclude, delegates should remember to create policies and legislation to help these victims, not punish them.

¹³⁴ HCR/GIP/06/07 *Guidelines on International Protection: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of being trafficked*. The UN Refugee Agency, 7 April 2006. Web. 23 June 2017. <http://www.unhcr.org/443b626b2.pdf>.

¹³⁵ *Consideration on the Issue of Human Trafficking from the Perspective of International Refugee Law and UNHCR'S Mandate*. United Nations High Commissioner for Refugees, 25-27 March 2009. Web. 23 June 2017. <http://www.unhcr.org/en-us/publications/legal/4ae6b66e9/considerations-issue-human-trafficking-perspective-international-refugee.html>.

Technical Appendix Guide

Topic I: Protecting and Promoting the Human Rights of Migrant Domestic Workers

Begum, Rothna (2016) *'Domestic Workers: Overworked and Underprotected'* Human Rights Watch
<https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>

This article references the current state of Migrant Domestic Workers in the Gulf Cooperation Council (GCC) States. Currently the GCC hosts 2 million Migrant Domestic Workers. However, workers within the GCC are subject to the Kafala system, which is a labor system that prevents workers from receiving adequate compensation and treatment for their work. The article then goes on to address the various situations and violations Migrant Domestic Workers have been subjected to in the GCC.

Domestic Workers Convention (2011) *'Convention concerning decent work for domestic workers'* International Labour Organization, Geneva, 100th ILC Session
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CODE%3AC189

This document addresses the rights of Domestic Workers under C189, as well as the expectations of Member States who choose to ratify the convention. Key points for the convention are: fair wages, benefits and working conditions for Domestic Workers.

Migrant Rights (2015) *'Understanding Kafala: An Archaic Law at Cross Purposes with Modern Development.'*
<https://www.migrant-rights.org/2015/03/understanding-kafala-an-archaic-law-at-cross-purposes-with-modern-development/>

This article provides in depth explanation of the Kafala system and its rooting's in the Middle East. The Kafala, or sponsorship system is a system that enables exploitation and forced labor through the use of threats and penalties toward the Migrant Worker. This articles deeply explains Kafala as a means for the reader to also understand how the works find themselves in difficult conversations.

United Nations (2016) *'Migrant Domestic Workers: Facts Everyone Should Know.'* UN Women.
<http://www.unwomen.org/en/digital-library/multimedia/2016/9/infographic-migrant-domestic-workers>

This page aims to explain the various statistics surrounding Migrant Domestic Workers. This infographic covers the following statistics: What composed the population of Domestic Workers? How many Migrant Domestic Workers are there? What does the separation by gender look like amongst these laborers? Who has ratified the ILO conventions?

United Nations (2010) *'Resolution adopted by the General Assembly 64/139. Violence against women migrant workers.'* General Assembly Sixty-Fourth Session
https://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/64/a-res-64-139.pdf

This Resolution released by the General Assembly encouraged Member States to undertake greater measures in the protection of the rights of Migrant Domestic Workers, regardless of immigration status, in order to prevent exploitation and abuse. Furthermore, it urged Member States to ratify and sign the suggestions made by the ILO Convention on the Protection of the Rights of All Migrant Workers and their Families.

II. Combating Human Trafficking Among Refugees and Displaced Persons

Agency, T.U.R., 2002. Guidelines on international Protection. UNHCR. Web. 16 June 2017.
<http://www.refworld.org/docid/3d36f1c64.html>.

The UNHCR issued guidelines pursuant to its mandate, contained in the Statue of the Office of the United Nations High Commissioner for Refugees, and Article 35 of the 1951 Convention relating to the Statue of Refugees and/or its 1967 Protocol. These guidelines are intended to provide legal interpretive guidance for governments, legal practitioners, decision-makers, and the judiciary, as well as the UNHCR staff carrying out refugee statuses determinations in trafficking (Agency, 2002).

Lagon, M. P., 2009. Trafficking and Human Dignity. Policy Review, pp. 51-61. Web. 4 July 2017.
<http://www.hoover.org/research/trafficking-and-human-dignity>.

This article deals with a personal account of trafficking and how this criminal act can destroy one's dignity and ability to assimilate back into society. Becoming broader towards the end, the author continues in talking about trafficking at an international level and what the international community, and the U.S. government should do.

Loring Jones, D. W. E. T. H. M. D., 2007. Globalization and Human Trafficking. Journal of Sociology and Social Welfare, Volume 34, Number 2, p. 107-122. Web. 11 June 2017.
<http://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=3252&context=jssw>.

Globalization demands that social workers embrace more than just local and national perspectives; they must adopt an international viewpoint as well. A negative aspect of globalization that deserves more attention is the international movement of labor. This paper presents a description an analysis of trafficking, the more deleterious part of this movement of people, in a global context. Decision makers seeking to make global migration more humane need to know about dynamics and process of trafficking, as well as ways to combat it. Definitional controversies, contextual issues (including the dynamics and processes of trafficking), and consequences of this movement for individuals and societies are discuss. Implications for social work are also presented (Loring Jones, 2007).

Trafficking in Persons Report. U.S. Department of State Publication, June 2016. pp.1- 418. Web. 27 August 2017.
<https://www.state.gov/documents/organization/258876.pdf>.

There is nothing inevitable about trafficking in human being. This report incorporates the insight of NGOs, advocates, and survivors with firsthand experience of this human rights abuse. This report strategizes on preventing human trafficking around the globe, analyzes government's prosecutions, protection and prevention efforts.