



**International Conference on Human Rights of Migrants  
and Multicultural Society**  
*Dignity and Justice for All Migrants*

Seoul, Korea  
10–12 November 2008

**Seoul Guidelines**  
on the Cooperation of NHRIs for the Promotion and Protection of  
Human Rights of Migrants in Asia

**Preamble**

*The International Conference on Human Rights of Migrants and Multicultural Society—Dignity and Justice for All Migrants held in Seoul, Korea on 10-12 November 2008,*

*Reaffirming* the Universal Declaration of Human Rights which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

*Recalling* the universal instruments agreed upon by States to safeguard human rights and fundamental freedoms, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), the International Convention on Rights of Persons with Disabilities (ICRPD), relevant International Labour Organization conventions, and regional instruments,

*Welcoming* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1 July 2003), reaffirming its importance as a baseline for migrant workers' rights, and recognizing the important work of the Committee on Migrant Workers,

*Welcoming* the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,

*Recognizing* that these instruments establish a framework for the protection of the rights and fundamental freedoms of all human beings,

*Recognizing* the important role played by the human rights organs of the United Nations, including the guidance and jurisprudence of the treaty bodies, the Human Rights Council, and special procedures including, notably, the Special Rapporteur for the promotion and protection of the human rights of migrants and his visits to Asian countries such as Indonesia, South Korea, and the Philippines,

*Reaffirming* the Durban Declaration and Programme of Action (DDPA), adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa, September 2001, as a landmark document in global efforts to eradicate racism, racial discrimination, xenophobia and related intolerance,

*Welcoming* the convening of the Durban Review Conference (DRC) which is to take place in Geneva on 20-24 April 2009, and the establishment of the International Coordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights Working Group on the DRC at the 9<sup>th</sup> International Conference of National Institutions (ICNI) in Nairobi, Kenya, October 2008,

*Recognizing* the importance of a human rights-based approach to migration, as well as the full participation of NHRIs, in the Global Forum on Migration and Development process,

*Welcoming* the timely adoption on 5 November 2008 of General Recommendation No. 26 of the Committee on the Elimination of Discrimination Against Women (CEDAW) on Women Migrant Workers who may be at risk of abuse and discrimination,

*Noting* that migration can be a positive social force as migrants make valuable contributions to economic growth and development in both home and host countries, including poverty reduction, and as migrants contribute to the vitality of a diverse society and to more enlightened relations among peoples,

*Noting also* that the situation of migrant workers and their families has become a critical contemporary human rights issue worldwide, particularly in relation to exploitation by traffickers, people smugglers, recruitment agents, and corrupt officials; deaths and injury in transit; discrimination and xenophobia; various forms of exploitation including sexual abuse; subjection to forced labour, slavery, practices akin to slavery; and intolerable working conditions; and inhumane treatment in cases of arrest, detention and

deportation,

*Recognizing* the unique role played by NHRIs in applying international human rights standards at the national level, thereby ensuring their independence and effectiveness in accordance with the Paris Principles, which enables them to contribute to the promotion and protection of migrant rights through dialogue between public authorities and civil society groups at the national level,

*Urging* therefore the continued enhancement of the role and participation of NHRIs in international human rights mechanisms, such as the Human Rights Council (Universal Periodic Review and Special Procedures) and Human Rights Treaty Bodies, as well as in regional human rights initiatives,

*Reaffirming* that NHRIs in the Asia-Pacific region should continuously play an active role in protecting and promoting human rights in the region, with special efforts to advocate for a human rights approach to migration and migration management, and to promote the establishment of NHRIs in countries where they are not yet established,

*Welcoming* the efforts and progress made by the Asia Pacific Forum of National Human Rights Institutions (APF) concerning migration issues, in particular, trafficking of women and children

*Welcoming* the efforts made by the ASEAN NHRI Forum to contribute to the development and establishment of an intergovernmental human rights body in accordance with the ASEAN Charter, and the contributions of the Civil Society Task-Force on ASEAN Migrant Workers to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu 2007),

*Recalling* the key concerns and issues identified by the Jakarta Process Review related to existing legal, institutional, and policy frameworks in the countries studied which are considered detrimental to the human rights of migrants in an irregular situation and migrant domestic workers,

*Expressing solidarity* with the Jakarta Process Review—Appeal to the Asia Pacific Forum in its Call for Regional Standard-setting on the Human Rights of Migrants in an Irregular Situation and Migrant Domestic Workers (Kuala Lumpur 2008),

*Noting* the importance of inter- and intra-regional relationships among NHRIs given the nature of migration and the capacity to share information and support when dealing with migrants and specific migration issues,

*Reaffirming* the need for increased cooperation and sharing of information and best practices, including the development of specific joint programs and mechanisms, among NHRIs at regional and international levels,

*Noting with great interest* similar calls for cooperation among NHRIs in other regions, including the creation of mechanisms for communication and coordination between human rights institutions, a call for NHRIs to engage in transnational cooperation and to

make use of their networks to communicate on migration issues, and to make recommendations to strengthen cooperation between NHRIs to ensure the promotion and protection of all human rights of migrants,

*Welcoming* the outcome of the Seoul Conference on Human Rights of Migrants and Multicultural Society (Seoul, 10-12 Nov. 2008) which recognizes the urgent need to develop strategies and action-oriented guidelines to strengthen and promote cooperation among NHRIs in Asia in addressing challenges identified during the Conference,

*Recalling* the Seoul Commitment to “promote, where relevant, regional cooperation among NHRIs” in order to implement the Seoul Declaration of the 7<sup>th</sup> International Conference of National Institutions for the Promotion and Protection of Human Rights held in Seoul on 14-17 September 2004,

*Welcoming* the establishment of the Seoul Process as a framework for cooperation among NHRIs and other stakeholders,

*adopts the following guidelines on the cooperation of NHRIs for the promotion and protection of the human rights of migrants in Asia.*

## **SECTION I Principal Areas of Action**

NHRIs in Asia are encouraged to take action in the following areas for the purpose of promoting and protecting the human rights of migrants:

### **International Human Rights Mechanisms and Processes**

1. Standard-setting on women migrant workers at the international and regional level,
2. Promoting universal ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, particularly among destination countries in Asia,
3. Promoting universal ratification and implementation of all other international UN human rights treaties and ILO conventions relevant to migrant issues,
4. Promoting ratification of the 2<sup>nd</sup> Palermo Protocol to the UN Convention against Transnational Organized Crime,
5. Ensuring regular reporting on and implementation of the concluding observations and recommendations associated with the human rights treaties above,
6. Encouraging removal of reservations to ratified human rights treaties,
7. Strengthening of cooperation with the Special Rapporteur on the human rights of migrants and other Special Procedures established by the Human Rights Council (HRC)
8. Participating in the Universal Periodic Review (UPR) mechanism and ensuring

implementation of its recommendations

9. Participating in the Global Forum on Migration and Development,
10. Enhancing cooperation with the Office of the High Commissioner for Human Rights (OHCHR), particularly with the National Institutions Unit (NIU) and Asia and the Pacific Unit
11. Enhancing cooperation with international organizations, in particular, International Labor Organisation (ILO), UN High Commissioner for Refugees (UNHCR) and International Organisation for Migration (IOM)
12. Institution-building related to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (January 2007),

### **National Implementation of International Human Rights Standards**

13. Encouraging and supporting establishment of independent NHRIs in conformity with the Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (Paris Principles),
14. Strengthening of NHRI mandates with regard to the human rights of migrants,
15. Developing and implementing National Action Plans (NAP) that include the human rights of migrants, and ensuring the implementation of such NAPs,
16. Harmonizing national legislation and policies in conformity with international human rights standards,
17. Improving policy coordination among government agencies in addressing issues of migration based on human rights principles,
18. Enhancing cooperation and collaboration with relevant government agencies,
19. Enhancing cooperation with stakeholders such as NGOs, academia, media and other civil society actors,
20. Ensuring participation of migrants in the policy decision-making process and policy implementation,

### **Remedies and Services**

21. Providing effective remedies such as complaints-filing, counseling, investigation, etc., regarding human rights violations against migrants, in particular, irregular and undocumented workers, victims of trafficking, smuggling and sexual abuse,
22. Providing legal aid or paralegal assistance and services,
23. Promoting and ensuring equal access to education, medical, social security, judicial and legal services for migrants and their family members,

### **Education, Training, and Awareness-building,**

24. Developing human rights education and training modules and materials in all appropriate languages,
25. Campaigning for raising public awareness of the human rights of migrants,
26. Educating migrants on their rights at the time of pre-departure in the country of origin and at post-arrival in the country of destination,
27. Educating and training government officers on human rights related to migrants, particularly immigration officers, the police and correctional officers,
28. Promoting a culture of human rights, meaning the promotion of tolerance, respect for cultural diversity, and inter-cultural understanding in order to combat racism, racial discrimination, xenophobia and related intolerance,
29. Carrying out collaborative studies, survey and research on issues related to migrants,

### **Migrant Workers**

30. Improving national policies on employment of foreign laborers and personnel, including company recruitment activities and the activities of recruitment agencies, in conformity with international human rights standards,
31. Establishing a set of minimum standards on working conditions and workplace policies including safety and health, overtime and irregular hours, fair and adequate pay, clear information regarding work duties, the reduction of language barriers, respect for cultural and religious beliefs in the assignment of work duties and schedules, job termination and forceful dismissal,
32. Taking legislative initiatives aimed at greatly increasing the penalty for a violation of national labor and employment laws, or recruitment policies,
33. Establishing a set of minimum standards for the living conditions associated with employer supplied housing for migrant workers, and their families, where appropriate, including requirements for the provision of basic amenities, such as shelter, running water, heat, and lighting,
34. Taking legislative and administrative initiatives aimed at securing the application of domestic labor and employment laws to migrant workers in a manner that is equal to that of the national labor force including the provision of medical services, participation in the national pension system, worker's accident and disability compensation, the right to join and form unions, and the right to legal remedies for unpaid wages,
35. Enhancing the right to change employer, especially in cases of exploitative or otherwise unjust working conditions,
36. Conducting joint research, development, and publication of model contracts for migrant workers which are industry specific and take into account relevant national contract laws,
37. Monitoring the human rights situation of irregular migrant workers during periods

of intensified government enforcement of national immigration laws and increased detention and deportation of irregular workers, including amnesty and repatriation actions,

38. Enhancing the right of asylum seekers to support themselves through temporary employment or other adequate means of livelihood while awaiting determination of their status,
39. Ensuring decriminalization of the victims of smuggling and trafficking,

### **Migrant Women**

40. Securing the safety, security and dignity of women migrant workers in their intended workplace before departure from the country of origin, while in transit, and after arrival in the country of destination,
41. Setting minimum standards applicable to the employment and treatment of women domestic workers, including a minimum entitlement to one day of rest per week,
42. Improving national policies regarding international marriage brokerage activities, including specific policies aimed at preventing, identifying, and, where appropriate, prosecuting activities that mislead women into marriage or violate the human dignity of women by inhuman and degrading treatment,

### **Children of Migrants and Child Migrants**

43. Securing the right to education regardless of the immigration status of the children themselves or their parents,
44. Preventing discrimination and prejudice against the children of migrants and international marriages, and child migrants, in schools and in the classroom,
45. Promoting cultural and social integration regarding the children of nationals abroad, and social and educational reintegration of the children of returning migrants,
46. Encouraging birth registration and granting of the appropriate nationality under the laws of both the country of origin and the country of destination, in particular the registration of newborn children of irregular migrants without fear of arrest or detention,
47. Enlarging social service programs that grant financial assistance for child care and medical services regardless of immigration status,
48. Protecting human rights of children of migrants in detention facilities.

## **SECTION II Working Structure Seoul Process**

The Seoul Process, which is a framework for cooperation among NHRIs and other

stakeholders with the purpose of implementing the Plan of Action set forth in Section III of these Guidelines, is hereby established in accordance with the following:

49. The National Human Rights Commission of Korea (NHRCK) is appointed as the convener of the Seoul Process,
50. The convener is requested to organize, in cooperation with the APF, the next meeting of the Seoul Process to be held in 2009 (Seoul Process 2009),
51. The convener shall cooperate closely with the Jakarta Process, which focuses on the human rights of migrants in an irregular situation and migrant domestic workers,
52. The APF is requested to provide necessary assistance and support, including financial, for the Seoul Process in relation to the implementation of these Guidelines,
53. The UN Special Rapporteur on the human rights of migrants shall be invited to join the Seoul Process 2009,
54. A focal point within each NHRI shall be created to serve as the primary channel for all cooperative efforts related to the implementation of these Guidelines,
55. Interested NHRIs are encouraged to enter into MOUs on issues of mutual concern regarding the promotion and protection of the human rights of migrants,
56. Interested NHRIs are encouraged to develop staff exchange programs to address issues of mutual concern in relation to the implementation of these Guidelines,
57. A proposal shall be made to the APF Councilors for the creation of a Working Group on Migration as decided at the 8<sup>th</sup> International Conference of National Institutions for the Promotion and Protection of Human Rights (Santa Cruz, Bolivia, 24-26 Oct. 2006),
58. A proposal shall be made to the APF Councilors to consider taking up the issue of migration as the Advisory Council of Jurists (ACJ) theme of study and recommendation for the year 2009/10.

### **SECTION III** **Plan of Action**

NHRIs in Asia are encouraged to undertake the following actions in coordination with the Seoul Process for the purpose of promoting and protecting the human rights of migrants:

59. Development of mid-term action plans for the implementation of these Guidelines at the regional level,
60. Development of concrete action plans in line with these Guidelines as an integral part of each NHRI's annual work plan from 2009 onwards,
61. Monitoring of the human rights situation of migrants in each country,
62. Development and strengthening of remedies to address human rights violations



- committed against migrants, especially undocumented and irregular migrants,
63. Taking of joint action, where appropriate, to address issues of mutual concern that require an internationally coordinated response,
  64. Production of an annual report on the implementation of these Guidelines,
  65. Establishment of joint research projects among NHRIs in Asia on the causes, processes and consequences of international migration,
  66. Initiation of an international campaign for the universal ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and other related human rights treaties,
  67. Working towards the inclusion of migration initiatives in the National Action Plans (NAP) of the NHRIs' respective governments,
  68. Development of training modules and materials related to the human rights of migrants,
  69. Initiation and implementation of public human rights campaigns on migrant issues aimed at awareness building,
  70. Initiation and implementation of human rights education and training programs for migrants at the time of pre-departure from the country of origin and at post-arrival in the country of destination,
  71. Initiation and implementation of human rights training programs for government officers, in particular, law enforcement agencies, including immigration, police and detention facilities,
  72. Monitoring and participation in the regional standard-setting and institution-building processes related to the human rights of migrants.

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