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Third Standing Committee on
Democracy and Human Rights

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**MIGRANT WORKERS, PEOPLE TRAFFICKING,
XENOPHOBIA AND HUMAN RIGHTS**

***Preliminary draft resolution submitted by the co-Rapporteurs
Mr. Cesar Camacho (Mexico) and Mr. Andrew Dismore (United Kingdom)***

The 118th Assembly of the Inter-Parliamentary Union,

- (1) *Recognizing* that globalization has intensified structural conditions of inequality and poverty, accompanied by the lack of recognition that human rights are relevant in the design and execution of programmes that address poverty, marginalization and social exclusion,
- (2) *Recognizing* that labour rights, legal migration, the flow and mobility of individuals, and the exchange of labour have been excluded from commercial liberalization schemes which purport to expand the processes of economic integration and free trade,
- (3) *Believing* in the importance of cultural diversity and economic interaction among the world's peoples and that a global society should be pluralistic and based on imperatives of cultural diversity and racial, ethnic and religious tolerance by fostering integration, rather than conflict and destruction,
- (4) *Further believing* that the United Nations Millennium Development Goals will not be achieved until States amply and comprehensively recognize that human rights – political, economic, social and cultural – are universal and indivisible, interlinked and interdependent, and that they mutually reinforce each other,
- (5) *Recalling* that the Universal Declaration of Human Rights states that all humans are born free and equal in dignity and rights, and that all individuals possess the rights and freedoms proclaimed in it,
- (6) *Affirming* that the States parties to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the Convention on the Political Rights of Women, the Declaration on Race and Racial Prejudice, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, must guarantee all individuals on their territories the rights enumerated in those instruments, without distinction of any kind,

- (7) *Recalling* that the Panel on Migration and development, held in Manila, Philippines, at the 112th Assembly of the IPU, established that the global debate on migration and development must include the "three D's": demography, development and democracy - the main forces behind migration, and the presentation at that Assembly of the Report of the Global Commission on International Migration and the Panel on Nationals and stateless persons, organized by the IPU and Office of the United Nations High Commissioner for Refugees,
- (8) *Convinced* that the trafficking of human beings represents modern-day slavery and requires cooperation at the international level and action at the national level to combat it,
- (9) *Acknowledging* the definitions of people trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings, and the EU Council framework decision on combating trafficking in human beings,
- (10) *Acknowledging* the definition of people smuggling in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime,
- (11) *Recognizing* the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the UN High Commissioner for Human Rights, which affirm that "States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons",
- (12) *Further recognizing* those binding international human rights instruments which explicitly require States to prohibit trafficking, including Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 35 of the Convention on the Rights of the Child, and Article 5(1) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Article 1 of the EU framework decision, and Article 18 of the Council of Europe on Action against Trafficking in Human Beings,
- (13) *Further recognizing* relevant non-binding instruments, including Article 5(3) of the Charter of Fundamental Rights of the European Union, Principle 12 and Guideline 4 of the UN Principles and Guidelines on Human Rights and Human Trafficking,
- (14) *Acknowledging* the relevance of other pertinent instruments, including the Slavery Convention, the Forced Labour Convention, and the ICCPR, ILO Convention No. 182 on Worst Form of Child Labour Convention, and Article 19 of the Council of Europe Convention on action against Trafficking Human Beings,
- (15) *Further acknowledging* previous efforts made by the IPU and UNICEF to improve anti-trafficking legislation worldwide with the publishing of the Handbook for Parliamentarians on Combating Child Trafficking in 2005,
- (16) *Recognizing* that prohibition of slavery is part of customary international law and constitutes *jus cogens*,

(17) *Reminding* governments and parliaments of the need to implement the international obligations they have undertaken and of the need for international cooperation to strengthen law enforcement,

(18) *Recognizing* that xenophobia, racism and related intolerance severely damage humanity and threaten the existence of entire populations,

(19) *Further recognizing* the difficulties facing some immigrants in integrating in destination societies and the generation of new forms of xenophobia and racism against them following the events of 11 September,

(20) *Stressing* that one of the direct negative consequences of the lack of an ample and comprehensive multilateral approach to migration policy has been an increase in rejection, abuse, ill-treatment, aggression and marginalization of migrants, resulting in criminal behaviour such as human trafficking and hate crimes instigated by xenophobia,

(21) *Believing* that the challenge to fulfill human rights is a social problem with a global scope, as migration, trafficking in persons and xenophobia all present a threat to basic human rights, freedom and individuals' welfare,

1. *Calls upon* IPU Member Parliaments to effectively promote and protect the fundamental human rights of migrants, in accordance with the international instruments to which they are party, such as the Universal Declaration of Human Rights; to disseminate and promote best practices by national parliaments to achieve a comprehensive understanding of the problems posed by migration; and to form specialized committees on migration, tasked with the effective protection of migrants' human rights and the finding of solutions to the problems of migration, with special emphasis on vulnerable groups, including women and children;
2. *Urges* governments of developed countries to recognize the economic importance of migration in trade liberalization agreements and to improve the living conditions of migrants around the world, so as to counter the adverse consequences of trade liberalization and make globalization "a positive force for all the world's people", as stated in the United Nations Millennium Declaration;
3. *Calls upon* the IPU, parliaments and governments to forge a new, broader and more universally inclusive understanding of migration and to conduct further in-depth analysis of the causes and consequences of migration;
4. *Urges* effective investigation, prosecution and adjudication of trafficking, including its component acts and related conduct, whether committed by government or by non-State actors;
5. *Encourages* governments to ensure adequate training for law enforcement agencies, enhancement of investigative powers and technology, and the establishment of anti-trafficking units;
6. *Reminds* governments and parliaments of their obligation under international human rights law to protect victims of trafficking, including through the effective identification of victims and observation of the principle of non-refoulement with

protection from summary deportation, supported by the granting of reflection periods and/or temporary or permanent residence permits;

7. *Recognizes* the right of trafficking victims to return to their country of origin through voluntary repatriation, enshrined in the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination, and their right of access to diplomatic and consular representatives from their State of nationality;
8. *Believes* that an effective investigation into cases of trafficking is a form of redress for victims, including the right to participate in investigations and judicial processes against traffickers with effective witness protection and assistance;
9. *Recognizes* the clear obligation of the competent authorities to provide all necessary protection measures, to refrain from deporting persons until the identification process is complete, and then only if repatriation is appropriate; and if the age of the victim is uncertain, to proceed on the basis that he or she is a child;
10. *Urges* appropriate measures of protection for all victims, including, but not limited to, secure accommodation, access to emergency medical assistance, translation and interpretation services, counselling and provision of information in languages victims understand, assistance during judicial proceedings, vocational training if appropriate, and access to education for children;
11. *Believes* in the need for a recovery and reflection period of at least 30 days, supported by renewable residence permits, where there are reasonable grounds to believe that a person is a victim of trafficking, to enable sufficient recovery from human rights violations and an informed decision on cooperation with the authorities;
12. *Emphasizes* that the protection of victims of trafficking should be incorporated into, and placed at the centre of, States' legislative frameworks, requiring governments to review immigration laws and policies in the context of their impact on the victims of trafficking, shifting the focus from immigration control to the prevention of exploitation of migrants and workers, and care of victims;
13. *Calls upon* all IPU Member Parliaments to prohibit political parties and public or private organizations that promote racism, xenophobia or related intolerance; to legislate to protect victims of violence and abuse attributable to racism and xenophobia, especially women, children and migrants, and to develop educational programmes to strengthen solidarity, cultural diversity and tolerance towards people from different ethnic, religious and cultural backgrounds;
14. *Urges* all IPU Member Parliaments to legislate to prohibit the dissemination of racist or xenophobic ideologies through the media; to promote research on xenophobia and racism, to better comprehend these problems and to improve integration in destination countries;
15. *Calls upon* all UN Member States that have not yet done so to ratify the CEDAW;

16. *Urges* developed countries to consider moral redress for the peoples of Latin America, Asia and Africa now living in poverty because of marginalization and technological disadvantage due in part to colonization, as recognized by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;
17. *Calls upon* States that have not yet done so to ratify the conventions for the protection of indigenous people's rights, particularly those of the International Labour Organization and UNESCO, and to ensure that national legislation avoids discrimination, racism and related intolerance against indigenous peoples;
18. *Urges* the strengthening of alliances between national parliaments and civil society to promote study programmes and activities to further peace, dialogue among civilizations, and the eradication of racism, xenophobia and related intolerance;
19. *Calls upon* States to ensure that their migration policies are compatible with their programmes for the prevention of racism, xenophobia and related intolerance, including the removal of any racist or xenophobic criteria applying to migrants who enter or stay in their territories;
20. *Urges* all States to develop programmes and policies to combat sexual violence against women and children, who are involuntary migrants or migrants with irregular migratory status facing a high risk of sexual violence motivated by racial discrimination or xenophobia.