

## Written contribution from People for Successful COrean REunification (PSCORE)

People for Successful COrean REunification (PSCORE) is pleased to have the opportunity to give input to the first session of the Open-Ended Intergovernmental Working Group (OEIWG) on possible principles, scope and elements of an internationally legally binding instrument to regulate transnational corporations (TNC) and other business enterprises with respect to human rights.

PSCORE welcomes UN Human Rights Council resolution A/HRC/RES/26/9 and suggests that the proposed “internationally legally binding instrument” is not limited to be used to ensure that TNCs and businesses are reminded of their obligations to make sure their migrant workers are granted proper human rights and dignity.

The Democratic People's Republic of Korea (DPRK)’s export of migrant workers has exponentially increased since 2011, as they have become one of DPRK’s largest income vessels. Through witnesses and testimonies, it was revealed that the working condition for North Korean migrant workers had significantly lower standards from other migrant workers. PSCORE believes that human rights regulations were not enforced properly in these countries but with the recently proposed internationally legally binding instrument, it would promote TNCs and businesses to properly remedy this issue. This is not just a problem involving North Korean migrant workers, but it sets guidelines for all migrant workers whom have been working under unjust conditions as well.

Labor rights and treatments of migrant workers falls under the State’s responsibilities but it is through TNC and business enterprises that most of these migrant workers were hired. Most North Koreans go overseas due to government with government contracts, so responsibilities of the host state comes from those agreements and the companies involved. Therefore, it is eminent that guidelines be set internally instead of as just broad laws that corporations may or may not adhere to. In this modern age, businesses are studied along with business ethics and those aspects shape social responsibilities and their images as well, but in some situations, manpower is considered more necessary than ethics. Due to large construction being done for events like the World Cup, countries like Qatar are using more and more cheap migrant workers for manpower without a sufficient amount of supervision, creating space for mistreatment of migrant workers because monitoring by host State is especially low. With a tight enforcement of labor laws on TNCs and business enterprises, there would be assured changes in specific worksites with the incentive to monitor them.

Under International Human Rights laws, which are legally binding treaties, the State is obligated to protect persons’ human rights, whether it is through TNCs and business enterprises or others. States who signed and ratified the treaties must commit to ensuring that their domestic law corresponds with the international legislation and that enforcement is taken when necessary. PSCORE emphasizes the following two international human rights treaties as fundamental principles to the new proposed internationally legally binding instrument:

1. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
2. International Covenant on Economic, Social and Cultural Rights (ICESCR)  
Specifically:

Article 11 recognizes the right to an adequate standard of living. This includes adequate food, clothing and housing, and the "continuous improvement of living conditions".

Article 12: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Article 15: The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

(in accordance to OCHR database)

PSCORE recommends the following to be included in the newly proposed legally binding instrument to regulate TNCs and other business enterprises in respect to human rights:

### 1. Legality of Workers

In reference to migrant workers, it is a given that working visas to enter the country and work should be arranged through the proper procedures of the host state without interference of the state of origin. What is troubling is the lack of communication between the businesses and individual workers. It is important to create a standard of having written contracts not between company and company, but between company and individual workers.

Allowing workers to work for a corporation without knowing the labor conditions is the responsibility of the corporation itself. Although there is a difficulty for corporations to see each individual migrant worker to sign the contract considering the large amount, the corporations should find an assurance that documents are not forged and are signed properly by the individual domestic and migrant workers. Failure in doing so should result in fining the corporations that do not provide enough resources to ensure whether or not the migrant worker's contract is legal.

### 2. Standard Working and Living Conditions

There should be a standard to the working conditions of all workers, indiscriminate between domestic workers and migrant workers. Working hours should be capped and overtime be paid accordingly. The employer Corporation rather than employer from state of origin should monitor working conditions.

In some areas of work, especially construction plants, migrant workers work so many hours that they have living spaces inside working sites. This kind of behaviour should have been investigated by host states and corporations should be accountable for the living standards their employees have been suffering through. This suggestion is made according to ICESCR articles 11 and 12.

Wages for migrant workers should not be set below minimum wage of the host country and should be paid to workers directly or be able to guarantee that employees receive their full wage.

### 3. Healthy Working Environment

Monthly physical check-ups for corporations with laboring workers should be a requirement. Too often malnourishment occurs due to long working hours and little food. Also, it is dangerous for workers to work in harsh conditions; environmental issues should be put into consideration and corporations should be ethically responsible to make sure workers are not in any anger on the work site.

Good mental health is also part of ICESCR article 12 as a right for all workers. This is why it is important that the working environment harbors no hostility, specifically, non-discriminatory standards should be taught to all employers. Corporation supervisors that see restrictions on migrant workers' ability to be exposed to the host country's culture have the responsibility to report it.

These recommendations are not limited to improving the labor standards of migrant workers, but domestic workers as well, so we believe that it could help with setting a foundation on the newly proposed legally binding instrument. With TNCs and business enterprises being able to abide to these standards, it is with no doubt that the working standards in the international field would improve drastically and the enterprises' credibility would increase. TNC and business enterprises with strong ethical standards build up a good reputation, not just for the corporations, but for their states as well, resulting in a more stable economy.