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Human Rights Council

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Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council*

23/20.

Human rights of migrants

The Human Rights Council,

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, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Vienna Convention on Consular Relations, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Recalling also previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the protection of the human rights of migrants, and the work of various special mechanisms of the Council that have reported on the situation of human rights and fundamental freedoms of migrants,

Bearing in mind the High-level Dialogue on International Migration and Development that will be held during the sixty-eighth session of the General Assembly, which provides a unique opportunity to work towards a global agenda for effective, inclusive discussions on migration policies and to identify measures that promote the role of migrants as agents of innovation and development,

* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its twenty-third session (A/HRC/23/2), chap. I.

Reaffirming that the Universal Declaration of Human Rights proclaims that everyone has the right to freedom of movement and residence within the borders of each State and the right to leave any country, including his or her own, and to return to his or her country,

Recognizing the valuable economic, social and cultural contributions of migrants to the communities of countries of origin and destination,

Reaffirming that everyone is entitled to all human rights and fundamental freedoms, without distinction of any kind, including the right to life, liberty and security of person, wherever the person is and regardless of his or her immigration status, and that human rights are only subject to the limitations and derogations established in international human rights treaties of which the State is party.

Recognizing that States are responsible for promoting and protecting the human rights of all persons, including irregular migrants, who are in their territory and subject to their jurisdiction,

Deeply concerned at the large and growing number of migrants, including women and children, who have lost their lives in attempting to cross international borders without the required travel documents, and recognizing the obligation of States to protect and respect the human rights of those crossing their borders,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to border control and the orderly management of migration, must be in accordance with international human rights obligations in order to uphold the human rights and fundamental freedoms of all migrants,

Expressing its concern at measures that, including in the context of policies aimed at reducing irregular migration, treat irregular migration as a criminal rather than an administrative offence, where the effect of doing so is to deny migrants the full enjoyment of their human rights and fundamental freedoms,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation, built on a partnership approach, and the need to protect the human rights of migrants, particularly at a time in which the increased regional and global mobility of persons, the structural changes in the global economy, and the ongoing adverse impact of the world financial and economic crisis generates new opportunities and challenges for countries of origin, transit and destination,

Recognizing that mixed movements, in which people with various needs and circumstances use the same routes and means of transport, create challenges for States with regard to the needs of the different individuals, and underscores the importance of status determination and effective referral systems,

Aware that, as criminals take advantage of migratory flows and attempt to circumvent restrictive immigration policies, migrants become more vulnerable to, inter alia, kidnapping, extortion, forced labour, sexual exploitation, physical assault, debt servitude and abandonment,

Affirming that crimes against migrants, including trafficking in persons, continue to pose a serious challenge and require a concerted international assessment and response, and genuine multilateral cooperation among countries of origin, transit and destination for their eradication,

Expressing concern at the arbitrary detention of migrants in the context of enforcement of migration laws and at the use of prolonged detention of persons without procedural guarantees, particularly without prospect of removal,

Stressing the need for States to develop adequate procedures for detention and expulsions that ensure respect for legal, procedural and substantive guarantees consistent with their international obligations,

1. *Takes note with appreciation* of the report of the Special Rapporteur on the human rights of migrants,¹ and welcomes his work;

2. *Calls upon* States that have not yet done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

3. *Expresses its concern* at legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migration and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of all migrants;

4. *Calls upon* States and regional and international organizations with competence in the field of regulating migration and implementing migration policies:

(a) To effectively promote and protect the human rights and fundamental freedoms of all migrants, including, in particular, the right to life, liberty and security of person, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international human rights instruments to which they are party;

(b) To adopt concrete measures to prevent violations of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants and their families respectfully and in accordance with their obligations under international human rights law, and to pay particular attention to women and girls, who may be exposed to sexual violence;

(c) To prosecute, in conformity with applicable law, acts of violation of the human rights of migrants and their families, such as arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

(d) To regularly assess their policies of migration control and enforcement with regard to the risks they may pose for the loss of life of migrants, and to continue efforts to avoid human tragedies in border crossings by land or sea;

(e) To promote and protect the right of all persons to the highest attainable standard of physical and mental health without discrimination of any kind and, to this end, to provide emergency medical and first-aid attention for migrants who need it, regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity;

(f) To take care that domestic law and administrative provisions and their application facilitate the work of humanitarian workers, human rights defenders and any other actor providing humanitarian assistance to and defending the human rights of

¹ A/HRC/23/46.

irregular migrants, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law;

(g) To avoid the stigmatization of irregular migrants in language, policies and practice, and to use correct terminology that qualifies actions rather than persons;

(h) To respect the human rights and inherent dignity of migrants, to put an end to arbitrary arrest and detention and, in order to avoid excessive detention of irregular migrants, to review, where necessary, detention periods and to use alternatives to detention, where appropriate;

(i) To respect in all circumstances the principle of non-refoulement and to comply fully with their international legal obligations with regard to the expulsion of migrants;

(j) To put in place, if they have not yet done so, systems and procedures that can easily be applied in order to ensure full compliance with their international human rights law obligations by all their programmes and institutions in the field of migration;

(k) To participate in international and regional dialogues on migration that include countries of origin, transit and destination;

5. *Takes note with appreciation* of the actions taken by several special procedures of the Human Rights Council and the treaty bodies for the effective prevention of violations of the human rights of migrants, including through joint statements and urgent appeals, and encourages them to continue their collaborative efforts to this end, within their respective mandates;

6. *Requests* the Special Rapporteur to, in accordance with his mandate, continue to pay attention to the topic of the universal enjoyment of human rights for all migrants;

7. *Encourages* States and regional and international organizations to enhance cooperation with the Special Rapporteur;

8. *Decides* to remain seized of the matter.

*40th meeting
14 June 2014*

[Adopted without a vote.]
