EXPERT GROUP MEETING
“YOUTH, DEVELOPMENT, AND RIGHTS”

PANEL
BARRIERS TO THE POLITICAL PARTICIPATION OF MIGRANT YOUTH

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Article 18. Freedom of assembly and association

- Youth have the right to assembly and information, to have youth forums at their disposal and create organizations and associations where their problems are analyzed and may present proposals of political initiatives before public authorities in charge of attending youth matters, with no kind of interference of limitation.
Article 21. Youth participation

- Youth have the right to participation in politics.
- The States Parties shall promote measures and encourage that youth exercise their right to register in political associations, to elect and be elected.
- States Parties undertake to promote that governmental and legislative institutions promote the participation of youth in the formulation of policies and laws concerning youth, drawing up the corresponding mechanisms to make effective the analysis and discussion of youth initiatives through their organizations and associations.
Article 11: Youth Participation

- Every young person shall have the right to participate in all spheres of society.
- Guarantee the participation of youth in parliament and other decision-making bodies in accordance with the prescribed laws;
- Facilitate the creation or strengthening of platforms for youth participation in decision-making at local, national, regional, and continental levels of governance;
- Ensure equal access to young men and young women to participate in decision-making and in fulfilling civic duties;
Article 21: Youth in the Diaspora

- Facilitate youth organizations to liaise and collaborate with the African youth Diaspora
- Promote and protect the rights of young people living in the diaspora
Inter-American Court of Human Rights - Advisory Opinion No. 18:

✓ "... a person's immigration status may in no way justify depriving him or her of the enjoyment and exercise of his or her human rights ...".

✓ States “...may grant a different treatment to documented migrants with respect to undocumented migrants, or between migrants and nationals, provided that this differential treatment is reasonable, proportionate and does no harm human rights. For example, distinction may be made between migrants and national regarding ownership of political rights..." Par 119.
Committee Human Rights - General Comment 15

✓ Migrant receive the benefit of the right of peaceful assembly and of freedom of association. In those cases where aliens constitute a minority within the meaning of article 27, they shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess their own religion and to use their own language. There shall be no discrimination between aliens and citizens in the application of these rights.

✓ No mention to political rights
Committee CERD - General Recommendation No.30: Discrimination Against Non Citizens

✓ "...Article 5 of the Convention incorporates the obligation of States parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights. Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law."
MERCOSUR: 1) Argentine 2) Brazil 3) Paraguay & 4) Uruguay.

Associate members: Bolivia, Chile, Colombia, Ecuador, Peru & Venezuela.

Agreement on Residence for Citizens of MERCOSUR Member States (2002) Member + Chile & Bolivia

Citizens of a member State or associated State who wish to reside in the territory of another member State or associated State may be granted legal residence there upon establishment of their nationality (Art. 1)

Equality of civil rights, some social rights, family reunification and right to education for children regardless of irregular status of parents. (Art.9)
European Union citizens in other Member States

- Maastricht Treaty 1992 lays down that every citizen of the European Union has both the right to vote and the right to stand as a candidate in European Parliament elections and municipal elections in the Member State where he or she lives. When the Treaty of Lisbon became effective on 1 December 2009, this right was incorporated in Article 20 of the European Union Treaty.

- Convention on the participation of Foreigners in Public Life at the local level (1992) Only 8 ratifications

Directive 94/80: implementation: Citizens of the Union have the right to vote and to be voted for in the Member State in which they reside without this affecting their voting rights in their own country (municipal elections)

Directive 93/109: citizens of the European Union may choose in which Member State they exercise their right to vote and stand as a candidate in elections for the European Parliament
Third country nationals in European Union

- In general, citizens who do not have the nationality of the country concerned are not granted voting rights in national elections (Exception reciprocity e.g. Portugal = Brazil)
- Third-party nationals generally have the right to vote in municipal elections whereby conditions can be attached in respect of periods of residency, status of residency and/or registration (e.g. Belgium, Denmark, Finland, Sweden, Norway, The Netherlands, etc).
Most migrations laws and policies relate only to immigration control, classes of visas, regulation of conditions for admission, stay, residence and procedures for the expulsion of migrants.

In same cases includes the recognition of some rights in particular for documented migrants.

Migration laws lack a youth perspective.

In some migration laws recently adopted (e.g. Argentina, Uruguay and Mexico), an age perspective is included but directed exclusively for the protection of children and adolescents up to 18 years of age.
Most migration legislation and policies make a strong distinction between documented and undocumented migrants.

Some laws go even further establishing strict migration control to combat irregular migration including provisions that oblige various civil servants and individuals to report undocumented migrants to migration authorities.
Increase benefits – Decrease risks of youth migration

✓ Elimination of criminalization of irregular migration, in particular regarding adolescents and young migrants
✓ Abolition of requirements on public services providers to report irregular migrants to authorities
✓ The international community and national policy-makers should adopt an age-sensitive approach to migration that considers not only children, but also the situation of youth.
✓ The special protections granted to children under international and national law and policy should not automatically disappear when a person turns 18 years old.
Increase benefits – Decrease risks of youth migration

 ✓ Regular migration status facilitates the integration of young migrants and the benefits of migration. States should enhance regular migration channels for work and family reunification, and make accessible permanent mechanisms to access regular migration status on the basis of reasonable conditions (such as years of residence, and connections to destination society)

 ✓ International cooperation between international organizations and governments at the bilateral, regional, and multilateral levels to facilitate integration of youth migrants in host societies