



# General Assembly

Distr.: Limited  
8 July 2021

Original: English

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## Human Rights Council

### Forty-seventh session

21 June–13 July 2021

Agenda item 3

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

**Albania,\* Argentina, Bolivia (Plurinational State of), Canada,\* Costa Rica,\* Ecuador,\* Fiji, Finland,\* Germany, Guatemala,\* Ireland,\* Luxembourg,\* Mexico, Morocco,\* Nepal, Paraguay,\* Peru,\* Philippines, Portugal,\* Sweden,\* Turkey,\* United States of America\* and Uruguay: draft resolution**

#### **47/... The human rights of migrants**

*The Human Rights Council,*

*Guided by the purposes and principles of the United Nations Charter, and reaffirming the Universal Declaration of Human Rights,*

*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 International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention against Transnational Organized Crime and the Protocols thereto against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and recalling also the Declaration on the Right to Development,*

*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 all migrants, and the work of the various special procedures of the Council that have reported on the situation of the human rights and fundamental freedoms of migrants,*

*Recalling further the Global Compact for Safe, Orderly and Regular Migration, adopted at the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration, held in Marrakech, Morocco, on 10 and 11 December 2018, and endorsed by the General Assembly in its resolution 73/195 of 19 December 2018,*

*Recognizing that migration has been and will continue to be part of the human experience through history, and underscoring that all migrants, regardless of their migration status, are human rights holders, and reaffirming the need to protect their safety, dignity, and human rights and fundamental freedoms,*

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\* State not a member of the Human Rights Council.



*Mindful* of the responsibility of the Human Rights Council to promote universal respect for the protection of all human rights and fundamental freedoms for all, without discrimination of any kind and in a fair and equal manner,

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

*Reaffirming* the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with their obligations under international law, in particular international human rights law and international refugee law,

*Expressing serious concern* about the particular vulnerable situations and risks faced by migrants, especially unaccompanied and separated migrant children, which can arise from the reasons for leaving their country of origin, circumstances encountered by migrants en route, at borders and at destination, discrimination related to specific aspects of a person's identity or circumstances, or a combination of these factors,

*Recognizing* the importance of coordinating international efforts to provide adequate protection, assistance and support to migrants in vulnerable situations, including those at risk of sexual violence, and taking note with appreciation of the principles and practical guidance on the human rights protection of migrants in vulnerable situations prepared by the Office of the United Nations High Commissioner for Human Rights and the Global Migration Group as a contribution to further work in this regard,

*Recognizing also* the shared and respective responsibilities of countries of origin, transit and destination in promoting, protecting and respecting the human rights of all migrants, and urging all countries to avoid approaches that might aggravate vulnerable situations,

*Affirming* that migrant smuggling and crimes against migrants, including those involving trafficking in persons, the worst forms of child labour, and forced labour continue to pose a serious challenge and require a concerted international assessment and response and strengthened multilateral cooperation among countries of origin, transit and destination for their eradication,

*Deeply concerned* that the coronavirus disease (COVID-19) pandemic has had the harshest impact on vulnerable people, including migrants with precarious livelihoods or working in the informal economy, victims of trafficking in persons and people fleeing their homes because of persecution,

*Deeply concerned also* that the COVID-19 pandemic and its disruption to economies perpetuate and exacerbate existing inequalities, and that the most at risk are persons in vulnerable and marginalized situations, including migrants, and recognizing the need to ensure non-discrimination and equality, including in equitable access to COVID-19 diagnostics, treatment and vaccines, while stressing the importance of age-, gender- and disability-responsive measures in this regard,

*Recognizing* that the poor and the most vulnerable people are the most affected and that the impact of the pandemic will have repercussions on development gains, hampering progress in the achievement of the Sustainable Development Goals, including targets 3.8 and 10.7,

*Reaffirming* the right of every human being, without discrimination of any kind, to the enjoyment of the highest attainable standard of physical and mental health,

*Recognizing* the important contribution of migrant workers, many of whom have provided essential labour across a range of occupations during the pandemic, while concerned that migrant workers are often concentrated in sectors of the economy with the highest levels of temporary, informal or unprotected work, with women migrant workers facing greater risks, including gender-based violence, harassment, exploitation, being victims of trafficking in persons and abuse,

*Recognizing also* that the return of migrants, whether voluntary or otherwise, must be consistent with States' obligations under international human rights law and international refugee law, including the best interests of the child, the principle of non-refoulement and their obligations relating to respect for due process and the prohibition of collective expulsions,

*Recognizing further* the need to ensure that returned migrants are duly received and readmitted, in accordance with States' obligation not to arbitrarily deprive their nationals of the right to enter their own country and the obligation of States to readmit their own nationals,

*Expressing concern* at the increasing trend of xenophobia, racism, multiple forms of discrimination and hostility towards migrants in societies, and disproportionate sanctions for irregular migration, which might have a negative impact on the fulfilment of human rights globally,

*Taking note with appreciation* of the Secretary-General's policy brief entitled "COVID-19 and people on the move" and the guidance of the United Nations High Commissioner for Human Rights, human rights treaty bodies, special procedures of the Human Rights Council and the United Nations Network on Migration on the human rights of migrants in the context of COVID-19,

*Taking note* of the reports of the Special Rapporteur on the human rights of migrants, including the reports of the Special Rapporteur on means to address the human rights impact of pushbacks of migrants on land and sea<sup>1</sup> and on freedom of association of migrants and their defenders,<sup>2</sup> and taking note also of the conclusions of the report of the Special Rapporteur submitted to the General Assembly,<sup>3</sup>

*Deeply concerned* about the large and growing number of migrants, especially women and children, including children who are unaccompanied or are separated from their parents, who have lost their lives, have been injured or have gone missing in their attempt to cross international borders, including at sea, and recognizing the obligations that States have to protect and respect the human rights of those migrants, regardless of their migration status, and reaffirming the commitment to take action to avoid the loss of life of migrants, including by preventing human rights violations resulting from pushback practices, in particular collective expulsions and refoulement,

*Recalling* the decision of the Secretary-General to establish the United Nations Network on Migration to ensure effective and coherent system-wide support to Members States in migration-related matters, and noting with appreciation the work performed by the Network,

*Reaffirming* that the general principles of the Convention on the Rights of the Child, including the best interests of the child, non-discrimination, participation, survival and development, provide the framework for all actions concerning children and should guide legislation, policies and practices relating to children, regardless of their status, including in the context of migration,

1. *Reaffirms* the duty of all States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, without discrimination of any kind, in conformity with the Universal Declaration of Human Rights and their obligations under international law, including international human rights law and international refugee law;

2. *Recommits* to ensuring full respect for the human rights and fundamental freedoms of all migrants, regardless of their migration status, and urges all States, including countries of origin, transit and destination, to prevent the creation and exacerbation of situations of vulnerability and to respond to the needs of migrants in vulnerable situations, and in this regard calls upon States:

(a) To ensure that their legislation and migration policies and practices are consistent with international human rights law, and to promote the enjoyment of human rights

<sup>1</sup> A/HRC/47/30.

<sup>2</sup> A/HRC/44/42.

<sup>3</sup> A/75/183.

by all migrants without discrimination, including by reviewing migration legislation, policies and practices with a view to examining and addressing their possible negative consequences, inter alia the creation and exacerbation of vulnerabilities;

(b) To give due consideration to the principles and practical guidance prepared by the Office of the United Nations High Commissioner for Human Rights and the Global Migration Group on the human rights protection of migrants in vulnerable situations, and the recommended principles and guidelines of the Office of the High Commissioner on human rights at international borders, when designing and implementing their migration policies;

(c) To respond to the needs of migrants in vulnerable situations, which can arise from the reasons for leaving their country of origin, circumstances encountered by migrants en route, at borders and at destination, discrimination related to specific aspects of a person's identity or circumstances or a combination of these factors, by respecting, protecting and fulfilling their human rights, in accordance with their obligations under international law;

(d) To protect migrants from becoming victims of national and transnational organized crime, including kidnapping, trafficking in persons, the worst forms of child labour, and forced labour, inter alia through the implementation of programmes and policies that prevent victimization and provide effective guarantees and protections, as well as access to medical, psychosocial and legal assistance, where appropriate;

(e) To ensure that the best interests of the child are a primary consideration in all actions concerning children, especially unaccompanied and separated migrant children, in both the development and implementation of legislation and policies, including by facilitating family reunification and ensuring that age determination measures respect human dignity and scientific criteria;

(f) To apply a gender perspective when preventing and addressing vulnerabilities;

(g) To work with national human rights institutions, civil society organizations, migrants themselves and other relevant stakeholders to understand the human rights impact of vulnerabilities created or exacerbated by migration policies and practices;

3. *Calls upon* all States to take a human rights-based approach in their responses to the COVID-19 pandemic, explicitly including all migrants, regardless of their migration status, with specific attention to those in vulnerable situations, and stresses that there is no place for any form of discrimination, racism or xenophobia in the response to the pandemic;

4. *Also calls upon* all States to promote and protect the right of everyone, without discrimination of any kind, to the enjoyment of the highest attainable standard of physical and mental health, and encourages them to promote equitable access to health services, disease prevention and care for migrants, including equitable access for all migrants to COVID-19 diagnostics, treatments and vaccines;

5. *Reaffirms* the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions, as well as the rights to safe drinking water and sanitation as a component of that right, and in this regard calls upon all States, including countries of origin, transit and destination, to cooperate to provide assistance and support to migrants in vulnerable situations, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate;

6. *Expresses its gratitude and support* to all migrant health-care workers, the majority of whom are women, and other essential migrant workers around the world who face difficult and challenging circumstances in dealing with the pandemic, and calls upon all States to provide migrant workers with the necessary protection and support, including protection from violence, harassment, exploitation, trafficking in persons and abuse, and to provide them with COVID-related protection and support;

7. *Encourages* States to give due consideration to the Secretary-General's policy brief entitled "COVID-19 and people on the move", the guidance of the United Nations High Commissioner for Human Rights, treaty bodies and special procedures of the Human Rights Council and the United Nations Network on Migration when designing and implementing their migration policies, including in the context of the COVID-19 pandemic;

8. *Calls upon* all States, including countries of origin, transit and destination, to adopt a comprehensive and integral approach to migration policies, to facilitate safe, orderly, regular and responsible migration and mobility of people, to cooperate at the international level on the basis of shared responsibility to harness fully the economic developments and cultural and social opportunities that migration presents, and to address efficiently its challenges in accordance with international human rights standards, including through the implementation, as applicable, of the Global Compact for Safe, Orderly and Regular Migration;

9. *Recognizes* the upcoming International Migration Review Forum as an opportunity to reflect on migration and mobility in the light of the COVID-19 pandemic and to strengthen the collective commitment to uphold the rights of all migrants, regardless of their migration status;

10. *Takes note* of the report of the Special Rapporteur on the human rights of migrants,<sup>4</sup> and expresses its concern at the continued human rights violations at international borders, which may include collective expulsions and refoulement resulting from pushback practices, which exacerbate the vulnerabilities of migrants;

11. *Calls upon* all States, within the framework of applicable international law, to take steps to ensure that their national procedures at international borders, including those to address COVID-19, incorporate adequate safeguards to protect the dignity, safety and human rights of all migrants, including individualized assessments of vulnerability;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights:

(a) To maintain its active engagement with the United Nations Network on Migration as a member of its Executive Committee, including by involving all relevant human rights bodies and special procedures, to ensure efficiency in mainstreaming human rights in the context of international migration;

(b) To continue to provide guidance on the promotion and protection of the human rights of migrants, including in the context of the COVID-19 pandemic, and to provide assistance to States that request it in the development of their national migration policies, and approaches to protect the human rights of migrants in vulnerable situations;

(c) To convene a one-day intersessional panel discussion on the human rights of migrants in vulnerable situations, with a particular focus on the experiences of migrants, highlighting best practices and challenges in this regard, and to prepare a summary report on the panel discussion and to submit it to the Human Rights Council at its fiftieth session and to the General Assembly at its seventy-seventh session, and to bring the report to the attention of the International Migration Review Forum and the United Nations Network on Migration;

13. *Requests* the Special Rapporteur to continue to report on the situation of the human rights of migrants and to participate in key discussions relating to the promotion and protection of their rights, including with respect to migrants in vulnerable situations and in the context of the COVID-19 pandemic, by identifying best practices and concrete areas and means for international cooperation;

14. *Encourages* States and regional and international organizations to enhance their cooperation with the Special Rapporteur on the human rights of migrants;

15. *Encourages* States to include, as appropriate, information on the implementation of their international obligations relating to the human rights of migrants in their national reports submitted to the Working Group on the Universal Periodic Review of the Human Rights Council and to the treaty bodies;

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

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<sup>4</sup> A/HRC/47/30.