



Waterloo Region High School

Model United Nations

**UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES**
The Human Rights of Migrants in Developing States

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"I believe it is time that we deliberately, publicly, and assertively pursue a meaningful policy shift toward the full and robust integration of human rights in development cooperation, and the adoption of human rights law as the basis for policy coherence across the international system... We are all duty bound to uphold the norms and standards and principles of the UN and the international system so painstakingly built up over the course of the past sixty plus years."

— Statement of the UN High Commissioner for Human Rights to the United Nations Chief Executives Board, Fall Session, 2011.

INTRODUCTION

The 2013 United Nations General Assembly on International Migration and Development represents an opportunity to address the human rights dimensions of migration at the international level in order to foster effective cooperation and coherence between States, international organizations, civil society actors and other stakeholders. The debate on the human rights of migrants in developing states can be focused within three fundamental principles of the post-2015 development agenda: human rights, equality, and sustainability.

The international movement of people is an integral part of a globalizing world, with more than 215 million international migrants currently living outside their country of origin. Migration is also a response to growing global inequalities. As the scale, scope and complexity of international migration has grown, states and other stakeholders have become increasingly aware of the need to engage in international dialogue to address migration, and to enhance the international governance of migration.

The mobility of people across international borders dates back to the creation of borders themselves, and the vulnerability of non-nationals is not a new phenomenon. While many migrants move to take advantage of increased opportunities out of genuine, free, and informed choice, many others are compelled to move as a result of poverty, lack of decent

work, social exclusion, violence, human rights violations, armed conflict, amongst others. In the absence of sufficient regular migration opportunities, migrants can be forced to resort to irregular migration channels including seeking out the services of smugglers or even falling prey to traffickers. Access to territory and procedures can be denied to those seeking asylum. Migrants can be stranded in transit, unable to move onwards, often subject to prolonged detention. At destination, while many migrants are able to work in safety and dignity, many others face violence, abuse, discrimination, xenophobia and exploitation in the work place and in their private, social, cultural and public life.

The United Nations system, by virtue of its capacity to represent and support its Member States, has already played an important role, albeit one which could be enhanced, in demystifying migration and presenting a more accurate picture of contemporary mobility. Additionally, the UN worked towards elaborating and assisting in the implementation of a human rights-based approach to migration, and offering a space for dialogue and cooperation between states on migration issues. Universal human rights principles form a common ground between all states, and the United Nations in accordance with its' Charter, has a key role to play as a forum for international cooperation, including on migration-related issues.

DEFINITION OF KEY TERMS

Migrants: In this guide, the term “migration” refers exclusively to the phenomenon of international migration, as opposed to internal migration or internal displacement. There is no universally accepted definition of an “international migrant”, but they are generally individuals who travel to a different country or place, often to find employment.

Developing States: a nation or a sovereign state with a less developed industrial base and a low Human Development Index relative to other countries. The term “developing” describes a currently observed situation and not an expected direction of progress. Developing countries tend to demonstrate higher growth rates than developed ones.

Resettlement Country: A resettlement country is any country where refugees who cannot be repatriated reside permanently.

Repatriation: To return refugees to their countries of origin at the end of the situation that caused them to leave.

GENERAL OVERVIEW

The UN Member States have facilitated the creation of specific standards for the protection of migrant groups, and it is vital for the rights of these regimes to be secured and strengthened. However, it is also important to keep in mind that, if applied in an uncoordinated manner and without consideration of international human rights law which applies to everyone, such fragmentation of different migrant categories might be counterproductive to the purpose of ensuring the human rights of all migrants. For example, a complex issue regarding the rights of people crossing borders stems from the blurred distinctions between forced and voluntary movement. While in principle they are normatively located in distinct legal categories, migrants (including irregular migrants) often move and live in similar physical spaces and are likely to have similar human rights needs, such as in relation to the right of health or freedom.

Furthermore, a strict categorization approach to the human rights of migrants is complicated because migrant workers can also be migrants with disability, children, pregnant women, and women who have suffered sexual and other forms of gender-based violence. Many migrants will or may become vulnerable on more than one ground, and may have suffered abuse of more than one type. Accordingly, with the international legal obligations of States to guarantee universal human rights to all human beings subject to their jurisdiction, the reality of migrants may be very different. Therefore, Member States of the United Nations must be clear on effective implementation and monitoring of the complex normative standards relevant to migration in order to ensure complementarity and coherence.

The basis of a consensus on treatment of migrants lies in a human-rights based approach to migration. While the human rights framework assets normative principles and requires States to contemplate a range of measures in order to fulfill their obligations, a human-rights based approach provides practical guidance and concrete tools to this end. The Report of the Global Commission on International Migration in 2005 stated, “The legal and

normative framework affecting international migrants should be strengthened, implemented more effectively and applied in a non-discriminatory manner, so as to protect the human rights and labour standards that should be enjoyed by all migrant women and men. Respecting the provisions of this legal and normative framework, states and other stakeholders must address migration issues in a more consistent and coherent manner.”

UN INVOLVEMENT, RELEVANT RESOLUTIONS, TREATIES AND EVENTS

Since the beginning, the United Nations has aimed to find beneficial ways to integrate migrants in Member States while going in accordance to human rights legislations. In order to do so, the UN has created a series of instruments to regulate migration laws abiding by international law as well.

International Legal Instruments Relative to Migration and Human Rights:

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights (1966)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
- International Convention for the Protection of All Persons from Enforced Disappearance (2006)
- Domestic Workers Convention (2011, No. 189)
- Migration for Employment Convention (1949, No. 97)
- Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975, No. 143)
- Convention relating to the Status of Stateless Persons (1954)

- Convention on the Reduction of Statelessness (1961)
- Protocol Against the Smuggling of Migrants by Land, Sea and Air

Resolutions and Reports:

- New York Declaration for Refugees and Migrants, A/RES/71/1
 - In adopting the Declaration, the 193 States who are members of the UN: declared profound solidarity with persons who are forced to flee; reaffirmed their obligations to fully respect the human rights of refugees and migrants; and, pledged robust support to countries affected by large movements of refugees and migrants.
- Report of the Special Representative of the Secretary-General on Migration, A/71/728
 - This report makes recommendations for the better management of migration through international cooperation, and proposes ways of strengthening the engagement of the United Nations on migration, as noted by the General Assembly in its resolutions 70/302 and 71/1.
- Modalities for the Intergovernmental Negotiations of the global compact for safe, orderly, and regular migration, A/71/L.58
 - The President of the General Assembly submitted a draft resolution concerning modalities for the intergovernmental negotiations of the global compact for safe, orderly, and regular migration. Its main idea is to embrace understandings among Member States regarding international migration in all its dimensions, making an important contribution to global governance and enhancing coordination on international migration - humanitarian, developmental, human-rights and other aspects of international migration.
- International Migration Report 2015
 - This publication presents information on international migration levels, trends and legal instruments for major areas, regions, and countries of the world.

EVALUATION OF PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The governance of international migration within the institutional structures of the United Nations presents a somewhat inconsistent picture. On the one hand, migration and human rights issues are being discussed more frequently and more integrally within UN institutions and its governance spaces, while at the same time there is a need for a more robust commitment to a human rights-based approach to migration and a clear vision on how such an approach could be implemented.

The challenge for Member States is the search for systematic, coherent and coordinated international cooperation in protecting the human rights of all migrants. Based on the existing and agreed legal and normative framework of migration, the UN offers a common platform to address migration and human rights issues for its Member States, as well as important stakeholders.

In conclusion, a technical and working platform within the context of the General Assembly is needed in the long term in order to enable systematic interaction between all stakeholders on a broad range of cross cutting human rights and migration issues, including to identify policy gaps and emerging issues. As released by the UNHCR, the platform, possibly entitled a Standing Panel on Migration and Human Rights, would thus aim to facilitate a norm-based discussion, share information and establish common understandings on cross-cutting issues, particularly those which are not being adequately considered within existing UN governance forums.

POSSIBLE SOLUTIONS

- Managing crisis-related movements and protecting migrants in vulnerable situations.
- Building opportunities for labour and skills mobility.
- Ensuring orderly migration, including return.
- Fostering migrants' inclusion and development.
- Strengthening migration governance capacities.

- Providing recommendations on how willing coalitions of States, working with other stakeholders, can begin to tackle these priorities and gradually broaden the consensus on what a functioning international architecture for migration should look like in 2018 and beyond.
- Protection interface between asylum and migration movements.
- Human rights of smuggled migrants.
- Exploitation and abuse of migrant workers.
- Countering discrimination and xenophobia against migrants.
- Access of irregular migrants to essential services such as health and education.
- Rights of migrants caught in disaster or conflict situations.
- Protection of migrant women in the context of sexual and gender-based violence.
- Situation of children in the context of migration.

The UNHCR would seek for Member States to establish working links with human rights mechanisms as well as other relevant supervisory and monitoring mechanisms. It would bring together all relevant stakeholders to ensure coherence and consistency in addressing migration and human-rights related issues. In order to be politically acceptable, such a structure would need to demonstrate its added value in the growing tangle of migration-related discussions taking place within and outside the United Nations.

RECOMMENDATIONS

As relevant, Member States and the UN System, along with other stakeholders should;

- a) Strengthen discussions on migration and the human rights of migrants with the deliberations of the Human Rights Council.
- b) Establish a UN-led multi-stakeholder initiative on indicators on migration and human rights. These are necessary to build capacity to develop rights-based policy at the national and local levels, and develop tools for monitoring and implementation.



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QUESTIONS A RESOLUTION COULD ADDRESS

1. How will Member States ensure universally accepted standards concerned with migrants and migration?
2. How will Member States enhance knowledge on and monitor the human rights situation of migrants?
3. To what extent will other Member States be willing and able to contribute to the acceptance of migrants, economically, socially, and politically?

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