



# General Assembly

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## Human Rights Council

### Fifty-third session

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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**

**Argentina, Armenia,\* Chile, Colombia,\* Costa Rica, Ecuador,\* Guatemala,\* Ireland,\*  
Luxembourg, Marshall Islands,\* Mexico, Nepal, Paraguay, Peru,\* Portugal,\* Türkiye\*  
and Uruguay:\* draft resolution**

### **53/... Human rights of migrants: prevention and accountability for human rights violations in transit**

*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 all previous Human Rights Council resolutions on the human rights of migrants, including resolutions 29/2 of 2 July 2015 and 47/12 of 12 July 2021, all General Assembly resolutions on the protection of migrants, the most recent of which is resolution 76/172 of 16 December 2021, as well as Assembly resolution 76/141 of 16 December 2021,*

*Recalling further the Global Compact for Safe, Orderly and Regular Migration endorsed by the General Assembly in its resolution 73/195 of 19 December 2018, and welcoming the Progress Declaration of the International Migration Review Forum, adopted at the first International Migration Review Forum, held in New York from 17 to 20 May 2022, and endorsed by the Assembly in its resolution 76/266 of 7 June 2022,*

*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 and dignity,*

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



and to respect, protect and fulfil their human rights and fundamental freedoms, in all situations, including in situations of transit,

*Recognizing also* 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,

*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,

*Recognizing* the obligation of States 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 promoting and enhancing search and rescue operations in dangerous border regions, enhancing safe and regular migration pathways and preventing human rights violations resulting from pushback practices, in particular refoulement and collective expulsions,

*Expressing concern* at the loss of life, disappearances, violence, including sexual and gender-based violence, exploitation, torture and other human rights violations and abuses suffered by migrants undertaking perilous journeys, and in this regard stressing the need to strengthen efforts to enhance and diversify the availability of pathways for safe, orderly and regular migration,

*Expressing serious concern* at 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 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 States to avoid approaches that might aggravate vulnerable situations and that may further marginalize migrants, and emphasizing the importance of fostering cooperation, information exchange and coordination between countries of origin, transit and destination to respect, protect and fulfil the human rights of migrants, regardless of status, throughout the migration cycle,

*Affirming* that the smuggling of migrants 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 human rights-based response, and strengthened multilateral cooperation among countries of origin, transit and destination for their eradication, to prevent, investigate, prosecute and penalize the smuggling of migrants and to prevent, combat and eradicate trafficking, and to identify, protect and provide assistance to victims of trafficking in persons,

*Recognizing* 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 also* 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 in xenophobia, racism, multiple and intersecting 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,

*Recalling* the work undertaken by the Office of the United Nations High Commissioner for Human Rights for the promotion and protection of the human rights of all migrants, in particular the Recommended Principles and Guidelines on Human Rights at International Borders, the report of the Office of the High Commissioner on the situation of migrants in transit,<sup>1</sup> and the organization of the intersessional panel discussion on the human rights of migrants in vulnerable situations and the summary report thereon,<sup>2</sup>

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;

3. *Calls upon* States to ensure that their migration legislation, policies and practices are consistent with international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination of any kind, including by reviewing migration legislation, policies and practices with a view to preventing their possible negative consequences, inter alia the creation and exacerbation of vulnerabilities, which could result in death, disappearances, violence, including sexual and gender-based violence, exploitation, trafficking in persons, torture and other human rights violations and abuses in situations of transit;

4. *Also calls upon* States to work with national human rights institutions, civil society organizations, migrants and their family members, and other relevant stakeholders to understand, prevent, investigate and address human rights violations and abuses against migrants in transit caused or exacerbated by the lack or inadequate implementation of preventive measures, or by migration policies and practices lacking a human-rights based approach;

5. *Encourages* States to establish and strengthen comprehensive legal frameworks that safeguard the human rights of migrants in transit, including measures to prevent pushbacks and collective expulsions, and to provide access to fair and efficient asylum procedures and to other forms of regular stay for migrants in vulnerable situations, in line with international law;

6. *Also encourages* States to adopt gender, disability and age-responsive approaches for the prevention of or effective responses to human rights violations and abuses against migrants, including migrants in transit, addressing the specific needs of women and girls and persons in situations of vulnerability, especially persons with disabilities, children and older persons, including their protection from all forms of violence, exploitation and abuse;

7. *Stresses* the importance of eliminating all forms of discrimination, including racial discrimination, xenophobia and related intolerance, stigmatization, stereotyping, hate speech and negative narratives against migrants, in line with international human rights law, in helping to prevent human rights violations and abuses against migrants, including migrants in transit, and calls upon States to adopt and implement legislation, policies and programmes that effectively address these forms of discrimination, ensuring access to justice and remedies for victims, and promote evidence-based narratives on migration;

8. *Recommits* to strengthen efforts to enhance the availability and flexibility of pathways for safe, orderly and regular migration as a means of preventing human rights

<sup>1</sup> A/HRC/31/35.

<sup>2</sup> A/HRC/50/52.

violations and abuses against migrants in transit and decreasing their reliance on dangerous routes;

9. *Urges* States to adopt measures to prevent deaths, disappearances, acts of torture, violence, including sexual and gender-based violence, excessive use of force against migrants, and refoulement, and to ensure that all human rights violations and abuses are subject to independent and transparent investigations and that perpetrators are held accountable;

10. *Also urges* States to adopt effective measures to prevent, investigate and punish any form of arbitrary deprivation of liberty of migrants, including migrant children, within the territory and jurisdiction of the State;

11. *Further urges* States to put an end to arbitrary arrest and detention, and encourages States to pursue alternatives to detention, noting the measures that have been successfully implemented by some States, and to work towards ending the detention of migrant children;

12. *Calls upon* States to protect migrants from becoming victims of national and transnational organized crime, including kidnapping, smuggling of migrants, trafficking in persons, the worst forms of child labour, contemporary forms of slavery 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;

13. *Also calls upon* States to ensure the rapid and accurate identification and referral of migrants who may be in situations of vulnerability at international borders, to provide assistance and relief to migrants in distress, regardless of their migration status, and to create a safe and enabling environment in which humanitarian actors that provide such attention can operate free from hinderance and insecurity, including to the effect that domestic law and administrative provisions and their application facilitate the work of all actors providing humanitarian assistance to and defending the human rights of migrants in transit, inter alia by avoiding their criminalization and stigmatization, impediments or obstruction to them or restrictions thereon, contrary to international human rights law;

14. *Further calls upon* States to adopt concrete measures to prevent the violation of human rights and abuses against migrants while in transit, including in ports and airports, at borders and other transit areas for migration, and to adequately train public officials and others who work in those facilities and in border areas to treat these migrants respectfully and in accordance with their obligations under international human rights law, and in this regard takes note of the *Human Rights at International Borders: A Trainer's Guide*, jointly published by the Office of the United Nations High Commissioner for Human Rights and the Office of Counter-Terrorism;

15. *Encourages* States to strengthen cooperation, information exchange and coordination at all levels, including between countries of origin, transit and destination, and with international humanitarian organizations, civil society organizations, and migrants and their families, in order to prevent and investigate human rights violations and abuses against migrants in transit, to find and identify missing migrants and to ensure accountability for victims;

16. *Welcomes* the ongoing work of the United Nations Network on Migration on missing migrants and humanitarian assistance in line with the Progress Declaration of the International Migration Review Forum, inter alia the exchange of good practices, including through cross-border cooperation to support families and communities in preventing and responding to the death of migrants or migrants going missing;

17. *Takes note* of the report of the Special Rapporteur on the human rights of migrants,<sup>3</sup> requests the Special Rapporteur to continue to report on the situation of the human rights of migrants, including those in transit, and encourages States and regional and

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<sup>3</sup> A/HRC/53/26.

international organizations to strengthen their collaboration with the Special Rapporteur in advancing the human rights of migrants;

18. *Takes note* of the recommendations of the Special Rapporteur on the situation of human rights defenders contained in her report to the General Assembly;<sup>4</sup>

19. *Requests* the Office of the High Commissioner:

(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 migration governance;

(b) To continue its work on promoting and protecting the human rights of all migrants, including those in transit, through the provision of, inter alia, technical assistance, capacity-building and the sharing of best practices with States, relevant stakeholders and civil society;

(c) To convene a half-day intersessional panel discussion, accessible to persons with disabilities, on avenues to prevent and address human rights violations and abuses against migrants in transit and to ensure access to justice for victims and family members, including through monitoring at international borders, highlighting best practices and challenges in this regard, to ensure the meaningful participation of migrants and their family members, to prepare a summary report on the panel discussion and to submit the report to the Human Rights Council at its fifty-seventh session and to the General Assembly at its seventy-ninth session;

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

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<sup>4</sup> A/77/178.