



# QUNO

Quaker United Nations Office

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## Not Forgotten: Human Rights of Migrants at the 45<sup>th</sup> Session of the Human Rights Council

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UN Photo / Jean Marc Ferré

### Human Rights and Refugees

QUNO's belief in the inherent worth of every individual leads us to work for the promotion and protection of human rights for all. This includes a current focus on the human rights of migrants regardless of status. Our Human Rights & Refugees programme raises up the concerns of marginalized groups, so they are better understood by international policy makers, which leads to stronger international standards. Frontline organizations can use these strengthened international standards as a tool to limit suffering, improve lives and challenge the root causes of injustice.

### Introduction

The Quaker United Nations Office (QUNO) believes in the inherent worth of every individual and is committed to working for migration justice. This includes the promotion and protection of the human rights of migrants, regardless of migration status. Migration has been an integral component of our societies throughout history; however, migrants continue to face hostility, criminalization and violence which underlines what the High Commissioner of Human Rights has described as a lethal disregard for migrant's lives. This is further exacerbated by the Covid-19 global pandemic which is disproportionately impacting on those in situations of marginalization and vulnerability.

The Human Rights Council has an important role to play in the promotion and protection of the human rights of migrants and should contribute both to preventing violations and responding to human rights violations. This report provides a thorough collection of relevant elements from thematic reports, panels, debates, dialogues and resolutions and identifies potential entry points through activities mandated in resolutions adopted at this session.<sup>1</sup>

<sup>1</sup> This is not a fully exhaustive collection of all references as we have focused on thematic reports and on the debates and dialogues of most relevance.

# Human Rights of Migrants in Reports to the Human Rights Council

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This session of the Human Rights Council received two reports with human rights and migration as their main focus:

## **1. Report of the Working Group on the use of mercenaries: Impact of the use of private military and security services in immigration and border management on the protection of the rights of all migrants ([A/HRC/45/9](#))**

The report of the Working Group on mercenaries covers four main types of services provided by private military and security companies in the context of immigration control:

- provision of research and technical expertise;
- border security technologies and monitoring services;
- immigration detention, returns and removals;
- implementation of “externalization” policies.

The report details a pattern of widespread human rights violations resulting from securitization and externalization of border management and the notion that security for some can be bought at the expense of security, dignity and life for others. The report points to reduced protections for migrants including:

- criminalization of irregular entry and stay
- increased use of detention
- restricted access to asylum
- rapid returns and removals
- and criminalization of humanitarian assistance.

The Working Group notes that these measures coupled with the outsourcing of State functions to private actors creates a toxic blend, saying unambiguously:

This combination of policies has been disastrous for migrants, resulting in countless deaths along sea, lake,

river, mountain and desert crossings and in the violation and abuse of migrants’ rights on a massive scale. (para.20)

The Working Group concludes that:

The present report highlights the dramatic consequences of States contracting companies to undertake an array of security services to support State policies and measures to tighten border controls and prevent entry to irregular or undocumented migrants. At times, companies are directly responsible for human rights abuses of migrants, including refugees and asylum seekers, notably in situations of deprivation of liberty. In other instances, they are complicit in human rights violations and abuse caused by other actors, such as immigration and border authorities, primarily through the border security technologies they provide and their co-framing of migration as a security threat for which the “solution” is security and military technical and technological tools, which only they can provide. (para. 76)

Their recommendations focus on measures to address the lack of transparency, oversight and accountability highlighted in the report, including increased human rights due diligence, increased reporting on activities that have been outsourced, increased monitoring of the activities of private military and security companies and measures to prevent undue influence on migration policy making by those who profit from a heavily securitized approach.

## **2. Human Rights of Migrants, Report of the Secretary General ([A/HRC/45/30](#))**

The report of the Secretary General contains summaries of information submitted by 25 States and the EU and focusses on:

- protecting the human rights of migrants in vulnerable situations, including migrants impacted by the coronavirus disease (Covid-19) pandemic and missing migrants
- implementation of the Global Compact for Safe, Orderly and Regular Migration

The report covers the “substantial gaps in protection of their human rights” that migrants face and the way in which Covid-19 and responses to it have exacerbated existing inequalities and threats to migrants’ human rights. The report also highlights the crucial role that migrants play in the provision of essential services.

In relation to migrants in vulnerable situations the report states:

Migrants often face particular challenges requiring specific human rights protection interventions, either because of the situations they have left behind, the circumstances they face in transit or at destination, personal characteristics such as their age, gender identity, disability or health status, or because of a combination of these circumstances or characteristics. These challenges are particularly acute for migrants in irregular situations or those with only precarious and irregular migration pathways available to them. (para. 9)

The report reminds States of the commitments made in the Global Compact for Migration including to take into consideration the [Global Migration Group’s Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations](#).

The report covers human rights based responses to Covid-19 and responses that further violate the human rights of migrants, including those that limit access to international protection under international human rights law and international refugee law which increase the dangerousness of migration:

The death or disappearance of migrants along precarious migration routes represents a human rights protection gap that affects the migrant victims, their families and communities. (para. 17)

In relation to the Global Compact the report states:

The Global Compact for Migration presents a unique opportunity to implement a comprehensive and human rights-based, child-sensitive and gender-responsive framework for the governance of international migration. (para. 22)

It highlights the value of the framework provided in the Global Compact for human rights based migration governance during and after the pandemic and recommends urgent action to implement the Global Compact.

Recommendations include measures to combat racism and xenophobia, increase international cooperation, ensure Covid-19 responses uphold the rights of migrants, and take further action to save lives. The final recommendation:

Encourages States to seize the opportunity for reflection presented by the Covid-19 pandemic to reimagine human mobility for the benefit of all and to adopt an approach based on a vision: that raises our collective humanity, recognizing that we have more in common than we have that divides us and prioritizing the safety, dignity and human rights protection of all migrants; that places migrants, as human beings equal in dignity and rights, at the centre of migration laws and policies; that is committed to a human rights-based, child-sensitive and gender-responsive approach; and that includes and recognizes each migrant as a rights holder and valuable participant in the process of building back better together. (para. 119(l))

### 3. Other reports

Several other reports explicitly touch on the human rights of migrants highlighting particularly in the context of upholding human rights during the Covid-19 pandemic:

Disproportionate impact of Covid-19 on migrants: Special Rapporteur on Slavery ([A/HRC/45/8](#), paras. 42, 46-50); Special Rapporteur on Toxic Waste ([A/HRC/45/12](#), paras. 51 & 54); including the enhanced risk of Covid-19 for migrants in detention: Working Group on people of African Descent ([A/HRC/45/44](#), para. 32); and the risk of spread of Covid-19 in places of detention in that are overcrowded or unhygienic: Working Group on Arbitrary Detention ([A/HRC/45/16](#), para. 16)

State responsibility for the disproportionate impact was expressed starkly by the Special Rapporteur on Toxic Waste:

Older persons, the poor, minorities, migrants, indigenous peoples, and other vulnerable groups, have all suffered predictably from the inaction of States in the face of a clear and present danger. ([A/HRC/45/12](#), para. 89)

Also, particularly notable is the way in which responses to Covid-19 have blocked access to international protection and made migration more dangerous as highlighted by the Special Rapporteur on Contemporary Forms of Slavery:

While the pandemic has immobilized large parts of the world, armed conflicts and human rights violations have continued and those in need of protection have been affected by stricter border management imposed to contain the spread of the virus. In April 2020, UNHCR reported that at least 57 States had closed their borders with no exception for those seeking asylum.

... the stricter border regimes imposed by many States create opportunities for human smugglers and traffickers to raise the cost of facilitating irregular migration, using increasingly precarious and dangerous routes. ([A/HRC/45/8](#), para. 43 and 51)

#### Need for specific measures in the face of Covid-19

- ensure equal access to healthcare: Working Group on People of African Descent ([A/HRC/45/44](#), para. 82); including through the use of firewalls Special Rapporteur on Contemporary Forms of Slavery ([A/HRC/45/8](#), para. 97)
- ensure equal access to social service assistance: Working Group on People of African Descent ([A/HRC/45/44](#), para. 79(f))
- regularize those in irregular status or extend visas to ensure people don't fall into irregular status: Special Rapporteur on Contemporary Forms of Slavery ([A/HRC/45/8](#), para. 71)
- prioritise those in the most vulnerable situations: Special Rapporteur on Water & Sanitation ([A/HRC/45/10](#), para. 53)
- release people from immigration detention: Working Group on People of African Descent ([A/HRC/45/44](#), para. 82)

The Working Group on Arbitrary Detention highlights that:

Detention in the context of migration is only permissible as an exceptional measure of last resort which is a particularly high threshold to be satisfied in the context

of a pandemic or other public health emergency. ([A/HRC/45/16](#), para 23)

Other relevant content in reports covers:

- intersectionality and the need to specifically include migrants in actions to promote and protect all rights: Special Rapporteur on Older Persons ([A/HRC/45/14](#), para. 39)
- specific rights violations in the context of detention and the duty to release all children, and their families, held in immigration detention: Working Group on Arbitrary Detention ([A/HRC/45/16](#), paras. 23-25)
- reprisals against migrant human rights defenders: Secretary General's Reprisals Report ([A/HRC/45/36](#), paras. 68-71)

In addition to the specific issues covered in the reports mentioned above, the report of the Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-recurrence contained a chilling assessment of what they describe as the moral climate of the age:

...The moral climate of an age, when it is pernicious, allows the manifestation of ideas and behaviour that were hitherto considered repugnant because they were unacceptable to democracy and human ethics.

...Public discourse is being weaponized for political gain with incendiary rhetoric that stigmatizes and dehumanizes minorities, migrants, refugees and any so-called "other". This is not an isolated phenomenon or the loud voices of a few people on the fringe of society. Hate is moving into the mainstream – in liberal democracies and authoritarian systems alike. And with each broken norm, the pillars of our common humanity are weakened. ([A/HRC/45/45](#), paras. 93 and 94)

This, alongside the analysis in the report of the Working Group on Mercenaries and the Secretary General's report, make it clear that serious and sustained violations of the human rights of migrants are systematic and in many instances part of a pattern of deliberate deterrence regardless of protection needs and human rights.



## Human Rights of Migrants Dialogues, Debates and Panels

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The Programme of Work for the 45<sup>th</sup> Session of the Human Rights Council contained several opportunities to engage with the issue of human rights of migrants in Interactive Dialogues, General Debates and Panels, this came up particularly in the Enhanced Interactive Dialogue on Covid-19 and the Annual Discussion on Intersectionality.<sup>2</sup>

### **Interactive Dialogues**

The **High Commissioner's oral update** at the start of the session contained powerful language to describe the dire situation regarding violations of migrants' rights at borders and refugee camps and called for independent monitoring:

Reports of pushback and collective expulsions at the sea and land borders of European Union States call for independent monitoring and verification. Last week's fire at the migrant center in Lesbos, Greece has had drastic impact on the lives of thousands of people and underscores the need for solidarity and shared responsibility among EU Member States.

The **Enhanced Interactive Dialogue on the Covid-19 global pandemic** provided an opportunity for States to convey specific human rights concerns related to the pandemic. Opening this dialogue, the High Commissioner recounted the many rights impacted and welcomes the human rights responses to the pandemic such as opening up access to health care for all, finding alternatives to imprisonment or detention and provision of temporary status to asylum seekers and other migrants. However, the High Commissioner recognized there are many gaps and many measures which could and should have focused much more on the most vulnerable and marginalized:

To learn from what went right, we must look at what went wrong. Today's multifaceted crisis has unmasked the

strong link between race, ethnicity, socioeconomic status and health outcomes. Pre-existing inequalities should be contextualized within historical, political, social and economic spaces, and be effectively addressed to build back better with equality and quality.

Other panelists also spoke of the highlighted inequalities that Covid-19 had highlighted. Deputy Director-General for Policy of the International Labour Organization noted the role of universal social protection in addressing this crisis, underlining that many who are over-represented in the informal economy, including migrants, are now left without protection. Executive Director of the World Health Organization Health Emergencies Programme underscored the importance of ensuring access to health for all particularly the most marginalised including refugees and migrants, stating powerfully:

We cannot leave behind women, we cannot leave behind children, we cannot leave behind older people, we cannot leave behind refugees, we cannot leave behind migrants, we cannot leave behind those in prisons.

Many States recognized the need to combat the pandemic and build back better with intersectional perspectives in mind to ensure those in situations of vulnerability are not further discriminated against. Many also underlined the disproportionate impact the pandemic has had on groups in situations of vulnerability, specifically referring to migrants (including Finland on behalf of Nordic and Baltic countries, Burkina Faso on behalf of African Group, Qatar, Jordan, Ecuador).

Burkina Faso on Behalf of the African Group highlighted that approaches to combat the pandemic must be cross-cutting, inclusive and give special attention to the most vulnerable groups of populations, explicitly mentioning migrants and refugees. Ecuador noted that persons and human rights should be at the center of pandemic responses taking note of the impact on women, girls, people with disabilities and migrants. Portugal reported that it had approved a set of extraordinary and urgent measures, *inter alia*, to safeguard the rights of migrants, refugees and asylum seekers.

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<sup>2</sup> Webcasts of the Human Rights Council are available here: <http://webtv.un.org/meetings-events/>

Many oral statements are also available on the Human Rights Council Extranet: <https://extranet.ohchr.org/sites/hrc/Pages/default.aspx> access details here: <https://www.ohchr.org/en/hrbodies/hrc/pages/hrcregistration.aspx>

Sri Lanka reported on the support they have provided to their nationals working in other countries:

Many of these migrant workers are facing the grim prospect of losing their jobs and means of livelihood, while some are faced with the challenge of enforced return. The Government of Sri Lanka has given high priority towards addressing their concerns, providing food and medicines where required, and where possible, working with the host countries to obtain legitimization of their status and medical facilities including testing for Covid-19.

Non-governmental organizations (NGOs) also referred to situations in which migrants' rights may be impacted, such as Penal Reform International's statement on detention. Minority Rights Group underlined the impact of institutional racism on minorities and indigenous people urging the Council to ensure that:

Recovery plans should also include economic aid packages that target the most affected by loss of livelihoods and income, targeting especially those in the informal sector, women and people with disabilities, and be inclusive of all workers in the country regardless of citizenship or documented status.

QUNO's statement noted that "neither the pandemic nor the responses to it have halted the movement of people but they have highlighted yet again the human rights violations experienced by many people in migration" and called for the Council to hold a panel to center migrant voices to ensure they have a forum to contribute to the dialogue on Covid-19 and human rights:

We ask you to rethink what is possible from the Council and encourage you, as first step, to hold a Panel to hear from migrants about the violations they face and the visions they have for post-Covid migration governance that upholds the dignity and rights of all of us regardless of the borders we cross or why we cross them.

Other Interactive Dialogues also focussed on the impact of Covid-19, including the **Interactive Dialogue with the Special Rapporteur on Slavery** following his thematic report on Covid-19 and slavery. The Special Rapporteur made

specific reference to groups in situations of vulnerability such as refugees, migrants and internally displaced people who are at greater risk of exploitation. This was echoed by States who noted the connection between the pandemic, contemporary forms of slavery and those in situations of vulnerability such as refugees and migrants. (including EU, Senegal and Nepal) Some States drew attention to how women are disproportionately affected by contemporary forms of slavery, but could have added further value by recognising women are not a monolithic category and explicitly mentioning the ways different women are impacted. NGOs also contributed to the dialogue by recognising the racialised nature of the impact of the pandemic, contemporary forms of slavery and other vulnerabilities such as lack of regular immigration status. For example, Minority Rights Group's statement highlighted the dire situation of migrant workers in this context:

Many migrant workers fear they will be detained or deported if they seek medical care, not only because of their residency status but on the basis that they may be suspected of carrying the virus.

This underlines the different ways in which racism and xenophobia are manifesting for migrant workers in light of the Covid-19 pandemic not only in access to services but in the stigmatization they face in being labelled as carriers of a virus that in reality can impact everyone.

The **Interactive Dialogue with the Working Group on Mercenaries** provided another opportunity to discuss the human rights of migrants following their report on immigration, border management and private military and security actors. Chair of the Working Group highlighted that in some cases private military and security companies are directly responsible for the abuse of human rights of migrants, and in other cases they are complicit. In both cases, the Working Group Chair reiterated, States have the obligation to protect and promote the human rights of all in their jurisdiction even when States have outsourced border management and detention facilities:

the Working Group reiterates its call on States to terminate the practice of outsourcing the overall operation of immigration detention facilities to private military and security companies, and to favour the use of alternatives to detention, in accordance with relevant international

standards. Furthermore, the Working Group stresses the need for States to introduce and strengthen measures to ensure effective oversight as well as accountability of companies and their personnel for human rights violations and abuses against migrants caused directly or indirectly by their business activities.

The Working Group Chair also referred to the privacy rights of migrants which are often ignored and highlighted the use of border technologies that collect, store and use biometric data of migrants:

Regarding the collection, storage and use of biometric and other data on migrants, States must require companies to ensure that the systems they provide and manage are regulated by law and comply with international standards and best practice on data protection and privacy.

The EU refuted the report's conclusion that the use of private security and military actors contributes to contravention of the principle of *non-refoulement* at their external borders. Cuba commented that some States' entire migration policies are discriminatory and called on the Working Group to further engage with this issue (this was also echoed by other States including Iran, Egypt and Chad). Despite the depth and clarity of this report few statements responded to the abuses and violations of human rights of migrants that it covered.

In the **Interactive Dialogue with Special Rapporteur on truth, justice and reparations and guarantees of non-occurrence**, the Special Rapporteur called for those who promote hostility, stigmatisation and violence particularly against certain communities to be held accountable under international standards. This call applies to those promoting hostility towards migrants and those perceived to be migrants.

In addition, the **Interactive Dialogue with the Working Group on arbitrary detention** highlighted the need to prevent and address the arbitrary deprivation of liberty, particularly during this global pandemic. The Working Group Chair reported on their country visit to Greece during which they found: "immigration detainees did not know of their right to apply for international protection; shelters

for unaccompanied children were overcrowded; instances of inaccurate application of procedures for assessment of age and vulnerability and insufficient legal aid to challenge detention and removal decisions." In their response Greece stated: "Greece has, on various occasions, received admonition on the basis that unaccompanied minors must not be detained, but be treated in a special way, as persons in vulnerable situations. Greece fully adheres to this principle, and therefore never intended to keep unaccompanied minors in detention or confinement." Going on to seek to justify its practice in relation to the "sudden and almost exponential increase in the numbers of unaccompanied minors arriving on the Greek territory" starting in 2015. Defence for Children International (DCI) also made a statement referencing the Greek government's response to Covid-19 and its impact on children on the move:

Recent measures ostensibly taken to control Covid-19 are paving the way to mass detention of children in the Aegean islands, where the so-called Hotspots are established. This would turn them into well-guarded camps with locked gates and barren courtyards with limited free movement, exposing children to threats to their integrity and life, only deepening their trauma.

In the **Interactive Dialogue with the Human Rights Advisory Committee**, the Committee expressed their research plans on practices that negatively affect the rights of migrants, in which they aim to identify policies, practices and national legislation of concern and particular avenues to address protection gaps experienced by migrants.

During the **Interactive Dialogue with the Working Group on people of African descent**, the Chair highlighted that "around the world, individual stories of racial injustice have striking similarities" and reflected on the ways legacies of colonialism that we see through mindset, habits and beliefs and the historical trade and trafficking in enslaved Africans are still present today. The Chair of the Working Group referred to an *amicus curiae* submission the Working Group are drafting on racial discrimination in child welfare proceedings involving refugees of African descent in the Netherlands. It is clear the Working Group recognise the particular issues that migrants of African descent may face in accessing their rights. It will be significant to see further work which sheds light on racial injustices faced by migrants of African descent.

The **Interactive Dialogue with the Fact-Finding Mission on Libya** analysed the human rights situation in Libya and provided some insights about the human rights of migrants. The Chair of the fact-finding mission highlighted a range of human rights violations in Libya, specifically mentioning conditions of detention, and situation of migrants. The Acting Special Representative and Head of the United Nations Support Mission in Libya stated that the situation of migrants in Libya is abhorrent with migrants and asylum seekers being detained and called for the closure of detention centres. This statement also mentioned that detained migrants and asylum seekers include unaccompanied migrant children and underlined that Libya is not a safe port of return as people are either arrested upon arrival or they disappear. In addition, this level of human suffering is unacceptable, and underlined the need to protect migrants and asylum seekers and to hold those responsible for violations and abuses of their rights accountable. Many States' interventions (including EU, Germany, Belgium, France, Ireland, Spain and the UK) referred to treatment of migrants. Qatar raised concern about targeting of civilians, including migrants, and civilian infrastructure, such as migrant detention centres. Mali and the NGO RADDHO both specifically expressed concerns around the situation of African migrants in Libya. In closing comments, the Chair of the fact-finding mission recognised the importance of addressing the rights of migrants and refugees are, as well as employing a gender perspective in addressing migrant rights.

### Debates

The Secretary General's report on the human rights of migrants was presented along with other reports under Item 3 (promotion and protection of all human rights). In the **General Debate on Item 3** that followed this was not significantly engaged with, there was a joint statement from El Salvador on the human rights of migrant children and adolescents (joined by Afghanistan, Australia, China, Colombia, Cuba, Guatemala, Honduras, Morocco, Peru, Portugal, Senegal, Spain, Switzerland, State of Palestine). This called on States to guarantee the rights and freedoms of migrant children regardless of their migration status particularly in the context of the pandemic and called upon the Council to make a statement on this matter to ensure the protection of the human rights of migrant children.

In addition, the International Service for Human Rights made a powerful statement in relation to the human rights of migrants:

For the human rights of migrants to be fully protected, the right of individuals and organisations to defend migrants' rights – whether through humanitarian assistance and search-and-rescue, legal aid, policy advocacy, or civil disobedience must also be fully protected. This should no longer be up for discussion.

They urged the Council 'to bring voices of migrants and their supporters to speak to the serious, often life-altering impacts to which their border policies give rise'. We echo that call for centring the voices and experiences of migrant and migrant human rights defenders.

The **Item 4 General Debate on Human Rights Situations** that require the Council's attention contained further statements on the human rights of migrants. The Greek National Commission for Human Rights drew the Human Rights Council's attention to fire at the Moria Camp in which they stated that

[t]his was a disaster waiting to happen as we repeatedly forewarned following closely the tribulations of thousands of asylum seekers trapped in the Eastern Aegean Islands under dire living conditions. Moria must not be seen as an isolated case but rather as an opportunity for a new human-right oriented and sustainable European asylum migration policy.

They particularly called upon States to fulfil the promise of the Global Compact on Migration to ensure migration is address in a collective and holistic way. Similarly, the International Catholic Migration Commission on behalf of the Civil Society Action Committee made a statement underlining the fire in Moria. In this statement, the Civil Society Action Committee underlined the lack of "reversal of failed European policies rooted in xenophobia". In addition, they expressed solidarity and support with all migrants and asylum-seekers suffering in the Moria camp and elsewhere.

The **Item 8 General Debate on the follow up to and implementation of the Vienna Declaration and Program**



included statements on the human rights of migrants, in light of the explicit inclusion of this and the right to seek asylum in the VDPA. Pakistan on behalf of the Organisation of Islamic Cooperation expressed concern of closure of borders to some migrant workers and refugees on the basis of discriminatory grounds such as sex, race or religion. In a joint statement Sweden (joined by Australia, Germany, Iceland, highlighted the increasing arbitrary arrest and detention of foreign and dual nationals and stressed that Covid-19 should not be used as a pretext to limit access to justice and consular assistance. Nepal stated that they have taken various measures in the context of the pandemic to address the challenges faced by migrants. QUNO delivered a statement as part of this General Debate which noted the 3,863 people recorded to have died in migration in the last year, highlighting the continued lethal disregard for people seeking safety and dignity. QUNO called on the Council to undertake an investigation of policies and practices that cause or exacerbate the risk of torture in transit and to recognise the barriers that prevent identification of the protection needs of all migrants.

The **Item 9 General Debate** on the Durban Declaration and Programme of Action followed a presentation by Chairperson-Rapporteur of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action highlighted the impact the combination of the pandemic and racism and racial discrimination has on migrants and refugees among other and concluded:

We can no longer tolerate the unacceptable, we are accountable to our young generations, to the many young people marching and asking for justice and equality in all corners of the world.

A significant number of States mentioned the impact that racism, racial discrimination, xenophobia and related forms of intolerance have on migrants (including Kuwait on behalf of the Arab Group, China, Pakistan, Bangladesh, Nepal, Turkey, Egypt). Egypt noted the continuing attacks and hate speech directed towards refugees and migrants and called for States to hold perpetrators to account. NGOs also took this opportunity to recognize the racism experienced by migrants, for example International Movement Against All Forms of Discrimination and Racism called on States to use their 20<sup>th</sup> anniversary to introduce legislative reforms

and policy measures to prohibit racial discrimination with the purpose of delivering justice and uplifting the lives of racialized communities.

### Panels

The **Annual Discussion on the integration of a gender perspective throughout the work of the Human Rights Council** was particularly relevant in assessing the Council's response to violations of the human rights of migrants given the focus this year on intersectionality. Speaking on the panel, the Special Rapporteur on the human rights of migrants stated that there needs to be urgent action to address the needs of migrant women as they are uniquely and disproportionately affected by discrimination and gender based violence. In addition, The Special Rapporteur made reference to the rights violations and abuses faced by lesbian, bisexual, transgender and intersex people in migration processes. Discussion on rights and specific needs of LGBTI+ migrants had largely been absent from the 45<sup>th</sup> Session of the Human Rights Council so this was a welcome contribution. Also speaking on the panel, the Director of Southhall Black Sisters, an NGO in London, highlighted some of the impacts of intersectional discrimination faced by migrant women:

Immigration laws also become useful tools of patriarchal coercion, control and oppression in the hands of abusers who also enjoy impunity from prosecution because women are too afraid to report them for fear of deportation and destitution. This is why State laws and social policies on gender equality, cannot ignore the ways in which immigration policies reproduce race, class and gender inequality and power relations at one and the same time.

This statement highlighted the need for human rights mechanisms to mainstream intersectional analysis to ensure the end to the suffering of migrant women. On the panel Dr. Joia Perry emphasized that:

human rights alone without a sustained commitment to justice – including redistributing resources and power to those who need it most and trusting that people know what is best for them – will never improve the lives of women.

The Euro-Med Monitor's statement echoed this, focussing on refugee women and highlighting the need for refugee women to be involved in the design, implementation, and evaluation of gender and migration programmes and policies. In the discussion many States made reference to

the need for gender mainstreaming but failed to provide a deeper analysis of how they employ intersectional analysis to enhance human rights protection for those in the most vulnerable and marginalised situations in their jurisdiction.

## Human Rights of Migrants in Human Rights Council Resolutions

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Whilst there was no resolution that focussed specifically on the human rights of migrants, migrants were referenced explicitly in several resolutions:<sup>3</sup>

### 1. In specific countries:

- Expressing grave concern about targeting of migrants in Yemen: Situation of human rights in Yemen (A/HRC/Res/45/15, preamble)
- Expressing concern at the difficult situation of Burundians who have fled the country and calls on countries hosting refugees to ensure that conditions are met for safe return: Situation of human rights in Burundi (A/HRC/Res/45/19, para. 22)
- Welcoming the efforts of neighbouring countries to host Venezuelan migrants and refugees and expressing concern about abuses and violations faced by returnees: Situation of human rights in the Bolivarian Republic of Venezuela (A/HRC/Res/45/20, preamble)
- Recognizing the efforts of States hosting Somali refugees and urging all States to meet their obligations under international law relating to refugees and calling on the government of Somalia with the support of the international community to implement the Declaration on Durable Solutions for Somali Refugees and the Reintegration of Returnees in Somalia and promote the wellbeing and protection of all internally displaced persons: Assistance to Somalia in the field of human rights (A/HRC/Res/45/27, paras. 11, 13(v) & 13 (w))

- Recalling the need for the Government of the Central African Republic and the international community and humanitarian actors to ensure that refugee and internally displaced persons can be returned and received in conditions allowing for safe, dignified and sustainable resettlement (preamble); expressing deep concern about the conditions in which refugees and internally displaced persons are living: Technical assistance and capacity-building in the field of human rights in the Central African Republic (A/HRC/Res/45/35, preamble & para. 36)

### 2. Highlighting the role of National Human Rights Institutions in addressing multiple and intersecting forms of discrimination: National human rights institutions (A/HRC/Res/45/35, para. 9(f))

### 3. Encouraging States to include migratory status in data collected to monitor and improve the impact of development policies on indigenous peoples and individuals including in responses to the Covid-19 pandemic: Human rights and indigenous peoples (A/HRC/Res/45/12, para.5)

### 4. Highlighting the potential for scarcity of water to increase displacement and the need for solidarity, cooperation and support for countries hosting large populations of displaced persons and refugees The human rights to safe drinking water and sanitation (A/HRC/Res/45/8, para.7(g))

### 5. Calling upon States, in the context of Covid-19 to ensure protection for those most affected, including refugees and internally displaced persons and migrants: Eliminating inequality within and among States for the realization of human rights (A/HRC/Res/45/14, para. 3(b)), including this clear call:

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3 Once the documents have been processed the adopted resolutions will be available here: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session45/Pages/ResDecStat.aspx>, until then they can be accessed on the Human Rights Council Extranet: <https://extranet.ohchr.org/sites/hrc/Pages/default.aspx> access details here: <https://www.ohchr.org/en/hrbodies/hrc/pages/hcregistration.aspx>

Calls upon States... to prevent all forms of discrimination, especially in the context of timely, universal, inclusive, equitable and non-discriminatory access to safe, quality, effective and affordable healthcare and services and medical supplies and equipment, including diagnostics, therapeutics, medicine and vaccines, and to leave no one behind, endeavouring to reach the furthest behind first, founded on the dignity of the human person and reflecting the principles of equality and non-discrimination;

6. Expressing concern about the spread of disinformation and propaganda designed to spread hatred, racism, xenophobia, negative stereotyping and stigmatisation: The safety of journalists (A/HRC/Res/45/18, para. 5)

7. Emphasizing the need for reinforced efforts to combat the scourge of racism, racial discrimination, xenophobia and related intolerance: Commemoration of the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action (A/HRC/Res/45/23, preamble)

8. Recognizing the impact of weakened institutions humanitarian settings, including forced displacements, on access to justice for women and girls: Promoting, protecting and fulfilling women's and girls' full enjoyment of human rights in humanitarian situations (A/HRC/Res/45/29, preamble)

9. Recognizing that environmental harm, including climate change, can generate displacement and migration: Rights of the child: realizing the rights of the child through a healthy environment. (A/HRC/Res/45/30, preamble)

## Possible Entry points on human rights of migrants in activities mandated by Human Rights Council Resolutions

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Whilst the resolutions adopted did not mandate any activities dedicated specifically to migrants, several of the activities mandated should include the human rights of migrants in their discussion, analysis and recommendations:

### **For the 46<sup>th</sup> Session of the Human Rights Council (scheduled for February/March 2021)**

The Council will hold a high-level panel discussion to mark the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action (on racism): Commemoration of the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action (A/HRC/Res/45/23)

### **For the 47<sup>th</sup> Session of the Human Rights Council (scheduled for June 2021)**

The High Commissioner's report on technical cooperation and capacity building will focus on the right to education, ensuring continuity of education and addressing educational inequalities with particular attention to children in the most vulnerable situations: Enhancement of technical cooperation and capacity-building in the field of human rights (A/HRC/Res/45/32)

### **For the 48<sup>th</sup> Session of the Human Rights Council (Scheduled for September 2021)**

The Council will hold a Panel on deepening inequalities exacerbated by the Covid-19 pandemic (a summary report will be submitted to the 51<sup>st</sup> session of the Council): Eliminating inequality within and among States for the realization of human rights (A/HRC/Res/45/14)

### **For the 49<sup>th</sup> Session of the Human Rights Council (scheduled for March 2022)**

The High Commissioner will prepare a report on women and girls' human rights in humanitarian situations. The resolution requesting this report has an emphasis on access to justice and accountability: Promoting, protecting and fulfilling women's and girls' full enjoyment of human rights in humanitarian situations (A/HRC/Res/45/29)

### **For the 50<sup>th</sup> session of the Human Rights Council (scheduled for June 2022)**

The Council will hold a Panel discussion on good governance in the promotion and protection of human rights during and after the Covid-19 pandemic, with a

focus on new technologies and the achievement of the SDGs: The role of good governance in the promotion and protection of human rights (A/HRC/Res/45/9)

### **For the 51<sup>st</sup> session of the Human Rights Council (scheduled for September 2022)**

The High Commissioner's report on the role of local on challenges faced in the promotion and protection of human rights, will include the right to equality and non-discrimination and the protection of persons in vulnerable and marginalized situations, and will identify elements of principles guiding local and national governments: Local government and human rights (A/HRC/Res/45/7)

## **Analysis, conclusions and recommendations**

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Reports and presentations from the High Commissioner for Human Rights and the Special Procedures covered aspects of the ongoing widespread violations of the human rights of migrants and emphasized the disproportionate impact of Covid-19 on migrants. Many States acknowledged this and called for the promotion and protection of the rights of migrants. However, in light of serious and widespread nature of the violations of the rights of migrants, including policies and practices that continue to risk loss of life and torture we would have liked to have seen more urgency in the statements and in the carry through of these issues in the Human Rights Council's resolutions.

It is important that the disproportionate impacts of Covid-19 on migrants, particularly those in vulnerable situations, was emphasized in reports and in States' interventions. Maintaining attention on this and the ways in which migrants' human rights, safety and dignity are impacted by changes in migration governance in light of Covid-19 will need to remain high on the Human Rights Council's agenda in 2021 and beyond. We look to those States that champion the human rights of migrants to maintain attention on this issue and bring forward initiatives that draw on migrants' experiences and expertise.

Whilst the human rights system itself (notably here, the High Commissioner and Special Procedures) continue to raise alarm about widespread, systematic and systemic violations of the human rights of migrants and numerous States recognize

### **Ongoing**

The High Commissioner is requested to continue to bring information to the Council about patterns of human rights violations that point to a heightened risk of a human rights emergency in a way that reflects the urgency of the situation and maintains space for dialogue and recognises that Council may resort to work formats that enhance dialogue with the State and region concerned, with the aim of addressing the root causes of and preventing further human rights violations and responding promptly to human rights emergencies: The contribution of the Human Rights Council to the prevention of human rights violations (A/HRC/Res/45/31)

the situations of vulnerability that many migrants there was too little collective response from States. At the opening of this year's sessions of the Human Rights Council in March the High Commissioner said that on rights of migrants "we must do better" at the end of this year's sessions this remains true. As the joint NGO statement at the end of the session stated:

The Council must be ready to live up to its responsibility to ensure independent investigations, wherever violations occur. This session opened with the High Commissioner calling for independent monitoring of collective expulsions of migrants and refugees at EU borders. This session closes with this call unanswered. The Council must act on this call by establishing a mechanism for this and other deadly migration routes.

We look to States who are committed to upholding all human rights for all to use the time between now and the next session of the Council to find ways to better answer this call and use the tools at the Council's disposal to address violations of the rights of migrants.

### **Contacts**

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