

AG/RES. 2910 (XLVII-O/17)

MIGRATION IN THE AMERICAS^{1/2/}

(Adopted at the third plenary session, held on June 21, 2017)

THE GENERAL ASSEMBLY,

REAFFIRMING that the American Declaration of the Rights and Duties of Man proclaims that all persons are equal before the law and have the rights and duties enshrined in that Declaration without distinction as to race, sex, language, creed, or any other factor;

EMPHASIZING that the American Convention on Human Rights recognizes that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality;

RECALLING that the Universal Declaration of Human Rights proclaims that everyone has the right to freedom of movement and residence within the borders of each state, and to leave any country, including his own, and return to his country;

REAFFIRMING that the principles and standards enshrined in these instruments take on special relevance in the context of protecting the human rights of migrants, including migrant workers and their families;

TAKING INTO ACCOUNT:

That through the adoption of the New York Declaration for Refugees and Migrants in September 2016, we reaffirmed the commitment of protecting the safety, dignity, and human rights and fundamental freedoms of all migrants, regardless of their migratory status, at all times and cooperate closely to facilitate and ensure safe, orderly and regular migration, including return and readmission, taking into account current national legislation;

That in the New York Declaration we also committed to launching a process of intergovernmental negotiations leading to the adoption in 2018 of a global compact for safe, orderly, and regular migration; and considering that making effective progress in the construction of that Global Compact should take into account the opportunities and challenges with a comprehensive approach, based on cooperation and grounded in solidarity between countries of origin, transit, destination, and return;

The annual reports of the Inter-American Commission on Human Rights (IACHR), together with its thematic reports on the topic, including the report "Human Mobility: Inter-American Standards," and Advisory Opinions OC-16/99 (1999), OC-18/03 (2003), and OC-21/14 (2014) issued by the Inter-American Court of Human Rights;

^{1.} The United States underscores its understanding that none of the provisions in this resolution create or affect rights or obligations of States under international law. The United States joins consensus

^{2.} The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. ...

The Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families, adopted by means of resolution AG/RES. 2883 (XLVI-O/16);

The declarations adopted by the Permanent Council "Inter-American Cooperation to Address the Challenges and Opportunities of Migration" on December 15, 2016 (CP/doc.5256/16 rev.3); and "Central American Children Unaccompanied Child Migrant" on July 23, 2014(CP/DEC. 54 (1979/14);

The reports of the Continuous Reporting System on International Migration in the Americas (SICREMI) and the report on irregular migration flows from Africa, Asia, and the Caribbean, document CP/doc.5263/17 rev. 1 which was presented to the Permanent Council on March 9, 2017;

The invitation to a high level forum on High-level Forum on irregular migration flows in the Americas, which is to take place in San José, Costa Rica, in the second half of 2017; and

The convening of the World People's Conference "For a world without walls, towards the universal citizenship" by the government and community organizations of the Plurinational State of Bolivia, to build bridges of integration among people, that will take place in Cochabamba in June 2017;^{3/} and

ALSO TAKING INTO ACCOUNT, as applicable, the relevant international and regional instruments, including, among others, the International Covenant on Civil and Political Rights, the International Covenant of Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Inter-American Convention Against Racism, Racial Discrimination and related forms of Intolerance, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the Convention Relating to the Status of Refugees and its Protocol of 1967, International Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All People from Enforced Disappearance and the Inter-American Convention on Forced Disappearance of Persons, the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, and the work of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, within the framework of the United Nations, together with the Protocols against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, that complement the United Nations Convention against Transnational Organized Crime (Palermo Convention), the Cartagena Declaration on Refugees of 1984, and the Declaration of Brazil and its Plan of Action of 2014;

RECOGNIZING:

That international migration is a multidimensional reality with a pronounced impact on the development of countries of origin, transit, destination and return; and recognizing, in that context, that international migration is an intersectoral issue that should *be* addressed in a

3. In connection with the reference to the World People's Conference "For a world without walls towards the universal citizenship," the governments of Argentina, Chile, Colombia, Costa Rica Guatemala, ...

coherent, broad, and balanced way, combining development with due consideration of the social, economic, and environmental dimensions and respect for human rights;

The major contribution made by migrants and migration to inclusive growth and sustainable development in the countries of origin, transit, and destination;

CONCERNED about the extremely vulnerable situation in which many migrants and their families in the Hemisphere find themselves, leading them frequently to being victims of crime, abuse, racism, and xenophobia, as well as acts of discrimination that violate their human rights; and concerned about the fact that migrant women, children, and adolescents are especially vulnerable to gender-based violence and other forms of sexual and labor exploitation;

RECOGNIZING that human trafficking and migrant smuggling, remain a serious challenge that calls for a concerted international evaluation and response through effective multilateral cooperation among countries of origin, transit, destination, and/or return to prevent, investigate, combat, and eradicate them, as well as assistance to victims;

NOTING that the increasing feminization of migration, largely driven by socioeconomic factors, requires that greater attention be paid to gender-related matters; and

RECOGNIZING the importance of promoting actions to protect the human rights and fundamental freedoms of accompanied and unaccompanied children and adolescents, in the context of international migration and of migrants in situations of vulnerability,

RESOLVES:

1. To urge states to promote and protect more effectively the human rights and fundamental freedoms of all migrants, including migrant workers and members of their families, with special emphasis on migrant women, children, and adolescents, regardless of their immigration status, in accordance with international human rights law, and where applicable, international refugee law and international humanitarian law.

2. To reaffirm that in exercising their sovereign right to enact and enforce measures regarding migration and border security, states must fulfill the obligations incumbent upon them under international law, to fully respect the human rights of migrants.

3. To vigorously condemn all manifestations or acts of racism, racial discrimination, xenophobia, and related forms of intolerance against migrants, including those related to access to employment, professional training, housing, education, health care services, social services, and public services. In view of the foregoing, to urge states to enforce and strengthen, as appropriate, the legislation and policies they have in force to address such situations, especially in order to hold accountable those who commit acts of racism or xenophobia.

4. To urge member states to avoid enacting laws that discriminate against migrants or otherwise violate their human rights.

5. To reiterate that no state should consider an individual's immigration status as a crime in itself or encourage, on the basis of migratory status, the adoption of criminal sanctions or others of equivalent effect; to urge that the administrative detention

of migrants by reason of their migratory status be used as an exceptional measure of last resort, preferring at all times alternatives to detention, in accordance with the right to freedom and personal security, as determined individually on the basis of need, reasonableness, and proportion; and to reaffirm that the treatment of migrants held in administrative detention and the conditions in which they are held must be decent, without punitive effect, and that states must comply with their obligation to respect the human rights of migrants at all times, including the right to due process.^{4/}

6. To vigorously condemn violations of the human rights of migrants, including the excessive use of force, arbitrary arrests, arbitrary separation of families, forced disappearances, torture, mistreatment in detention including sexual violence and violations of the right to life, including extrajudicial executions. In that regard, to urge states to adopt, as appropriate, concrete measures: (i) to prevent such violations, including at ports and airports and at borders and immigration checkpoints; (ii) to train public officials, as required and appropriate, employed in those services and in border regions; (iii) to treat migrants with respect and in accordance with the law, and (iv) to ensure, in accordance with the relevant national law and any applicable international obligations, that such violations are investigated, prosecuted, and, if appropriate, punished, and that the victims thereof are afforded redress.

7. To urge member states to take joint and coordinated actions to combat transnational organized crime and of other groups that benefit from crimes against migrants, particularly migrant women, children, and adolescents; at the dangerous and inhuman conditions to which they subject their victims, in flagrant violation of domestic and international law; at the high level of impunity enjoyed by human traffickers, migrant smugglers, their accomplices, and other members of transnational organized crime groups; and, in that context, to encourage states to take specific actions to combat such situations and to provide procedural guarantees and access to justice to migrants who have suffered abuse.

8. To encourage those States that have not already done so to enact national laws and adopt more effective measures to combat migrant smuggling and human trafficking, including servitude, including debt bondage, slavery, sexual exploitation, and/or forced labor, bearing in mind that those crimes endanger the lives of migrants or expose them to harm; and to request that States step up international cooperation to combat such offenses.

9. To urge all states, in accordance with national legislation and the applicable international and inter-American legal instruments to which they are parties, to enforce labor law effectively and to address violations of such law in connection with migrant workers' labor relations and working conditions, including those related to their remuneration, workplace health and safety, and right to freedom of association, and to promote, as appropriate, the implementation of campaigns and programs that inform workers of their basic workplace rights, the applicable labor laws, and the mechanisms available for asserting them, regardless of their migratory status.

4. The Government of The Bahamas supports the humanitarian principles and values in the development of non-criminalization and non-punitive standards for the management of irregular migrants; ...

10. To encourage states, as appropriate and in accordance with national legislation, to promote conditions for cheaper, faster and safer transfer of remittances in both source and recipient countries; recalling also the commitment assumed in the 2030 Agenda for Sustainable Development to reduce to less than 3 percent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 percent.

11. To promote, as appropriate and in accordance with national legislation, the signing of bilateral or regional agreements on the social security benefits of migrants and their families, so that social security contributions made in one state can be claimed in or transferred to the state where the migrant worker is located.

12. To advance policies and programs to promote access to health services by migrants, particularly those in situations of vulnerability.

13. Implement the actions and programs needed to improve the effective and equitable access of all migrants and their families, especially children and adolescents to education, consistent with each state's constitutional and domestic legal framework and applicable international human rights law.

14. To reaffirm the right that every person may resort to the courts to ensure respect for their legal rights and should have available to them an effective procedure whereby the courts will protect them from acts of authority that violate, to their prejudice, any fundamental constitutional rights.

15. To reaffirm the duty of the States Parties to the 1963 Vienna Convention on Consular Relations to fulfill their obligations under the Convention, including their duty to inform foreign nationals detained within their territory of their right to communicate with consular officials from their respective countries of origin.

16. To welcome with satisfaction, the migrant regularization programs adopted by some states that allow migrants to integrate fully into the host countries, that facilitate family reunification, and that promote an environment of harmony, tolerance, and respect; and to encourage states to consider the possibility of adopting these types of programs, including those related to labor migration.

17. To urge member states, international organizations, and other actors concerned, in defining, adapting, and carrying out their laws, policies, practices, or initiatives, as appropriate, for the promotion and protection of migrants' human rights, to encourage and favor:

- a. constructive dialogue among all states, competent national authorities, and actors concerned, including civil society and migrants,
- b. international, regional, and bilateral cooperation and coordination, and
- c. exchange of best practices and experiences in the

18. To urge member states to consider signing, ratifying, or acceding to, as appropriate, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and all related international and inter-American

legal human rights instruments, and to encourage the States Parties to those instruments to take the necessary measures to bring their legal frameworks into line with their commitments under said instruments for the benefit of all migrants, including migrant workers and their families, among others.

19. To urge member states to continue cooperating with the Inter-American Commission on Human Rights and supporting its work in the promotion and protection of migrants' rights and to take into account, as appropriate, the efforts made by other international organizations in support of migrants, including migrant workers and their families, in order to contribute to improving their situation in the Hemisphere and, in particular and as applicable, the efforts of the United Nations Special Rapporteur on the Human Rights of Migrants and the OAS Rapporteurship on the Rights of Migrants, as well as those of the International Organization for Migration, The United Nations High Commissioner for Refugees, the Committee for the Rights of Migrant Workers and their Families, the United Nations Children's Fund and the different components of the International Red Cross and Red Crescent Movement.

20. To urge member states to make contributions to the negotiation of the Global Compact for Safe, Orderly, and Regular Migration and, accordingly, to instruct the OAS General Secretariat to provide support so that, through the OAS Committee on Migration Issues, States can make hemispheric contributions to the construction of that document in accordance with the calendar established in the resolution on modalities adopted by the United Nations General Assembly, and, as appropriate, coordinate with the Regional Migration Conference and the South American Conference on Migration.

FOOTNOTES

1. ... on this resolution to the extent the provisions therein are consistent with U.S. law and policy and the federal government's authority. In pursuing the important goals outlined in this resolution, the United States will also continue to take steps to ensure national security, protect territorial sovereignty, and maintain the health and safety of its people, including by exercising its rights and responsibilities to prevent irregular migration and control its borders, consistent with international obligations.

2. ... It is still within the denunciation period established in Article 123 of the OAS Charter.

3. ... Peru, and the United States note that this is a nongovernmental outfit driven by the Plurinational State of Bolivia and, as such, its conclusions provide no conceptual benchmark whatsoever for the work of either the Organization of American States or other international organizations or mechanisms, nor are binding on them.

4. ... and the right to livelihood of migrants. At the same time capacity constraints are a perennial challenge to The Bahamas' investment effort in an improved, alternative system for irregular migrant management. However, constitutional protections and a stable Government which reinforces the Rule of Law and due process support a legal policy culture of improving protections of the rights of migrants in The Bahamas. The Bahamas is a party to the 1951 UN Refugee Convention and the 1967 Protocol, and enjoys functional cooperation with the office of the United Nations High Commissioner for Refugees on improving policies on migrant processing.