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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights of migrants

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution [72/179](#) on the protection of migrants. In paragraph 19 of the resolution, the Secretary-General was requested to submit to the General Assembly and the Human Rights Council a comprehensive report entitled “Human rights of migrants”, covering all aspects of the implementation of the resolution.

* [A/74/150](#).



I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 72/179, in which the Secretary-General was requested to submit to the Assembly and the Human Rights Council a comprehensive report entitled “Human rights of migrants”, covering all aspects of the implementation of the resolution.¹

2. Written submissions were received from Member States and from intergovernmental and non-governmental organizations in response to a note verbale, sent by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on behalf of the Secretary-General, requesting information on the implementation of resolution 72/179.

3. The report highlights relevant aspects of the international human rights framework regarding international migrants; explores various thematic issues related to the promotion and protection of the human rights of migrants addressed by the General Assembly in resolution 72/179; summarizes information received from Governments regarding the implementation of the resolution; and presents conclusions and recommendations on protecting the human rights of migrants. Relevant elements of resolution 72/179 are highlighted throughout the report.

II. Promoting and protecting the human rights of migrants

4. There are over 258 million international migrants in the world, representing approximately 3.4 per cent of the global population.² Migration is a complex and multidimensional phenomenon, involving the lives of women, men, girls and boys originating from and residing in every country and region of the world. Nearly half of all international migrants are women, while 30 million, approximately one in every eight, is a child.³ Most international migration continues to take place between countries within the same geographic regions.⁴

5. In the increasingly interconnected world of the twenty-first century, the free flow of technology, goods, services and capital have, in many ways, led to the creation of new jobs, opportunities and wealth. Migration has often been a driver of such benefits, leading to greater economic opportunities for migrants and host communities, including enriched cultural exchange and innovation.⁵ As acknowledged in resolution 72/179 and in the 2030 Agenda for Sustainable Development, migration has contributed to social, economic and cultural development and is key to achieving the Sustainable Development Goals.⁶ Migration can be a safe, positive and empowering experience for migrants and their families, allowing people in every region of the world to fulfil aspirations and achieve safer, more dignified lives.

¹ Following a decision to modify the reporting dates, the Secretary-General was requested to submit the report to the General Assembly at its seventy-fourth session and to the Human Rights Council at its forty-second session.

² Department of Economic and Social Affairs, Population Division, *International Migration Report 2017: Highlights (ST/ESA/SER.A/404)*, pp. 4–5.

³ See United Nations Children’s Fund (UNICEF), *Child migration* (<https://data.unicef.org/topic/child-migration-and-displacement/migration/>).

⁴ ST/ESA/SER.A/404, pp. 4, 11; see also resolution 72/179, 20th preambular para.

⁵ A/72/643, para. 1; resolution 73/195, annex, para. 8.

⁶ A/72/643, paras. 20–31; resolution 72/179, 14th, 18th and 30th preambular paras.; and resolution 70/1, para. 29.

A. International human rights framework

6. In resolution [72/179](#), the General Assembly called upon States to promote and protect effectively the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status. Member States have a broad range of obligations to respect, protect and fulfil the human rights of all individuals within their territory or subject to their jurisdiction, including all migrants, and to establish domestic laws, policies and programmes reflecting those obligations. These obligations rest on the very foundation of the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the nine core international human rights instruments listed below, which provide legal protection to everyone, regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status:

- (a) International Convention on the Elimination of all Forms of Racial Discrimination (1965);
- (b) International Covenant on Civil and Political Rights (1966);
- (c) International Covenant on Economic, Social and Cultural Rights (1966);
- (d) Convention on the Elimination of All Forms of Discrimination against Women (1979);
- (e) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- (f) Convention on the Rights of the Child (1989);
- (g) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- (h) International Convention for the Protection of All Persons from Enforced Disappearance (2006);
- (i) Convention on the Rights of Persons with Disabilities (2006).

7. Other obligations arise from international law more broadly, for example, international labour, refugee and humanitarian law, the law of the sea and international criminal law.⁷ Regional human rights instruments and mechanisms are also relevant to migration and human rights, including the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, the Arab Charter on Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter.

8. In resolution [72/179](#), the General Assembly reaffirmed that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Universal Declaration of Human Rights and recalled all relevant international instruments, including the core international human rights treaties. The Assembly acknowledged, in particular, the relevant contribution of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

9. In resolution [72/179](#), the General Assembly also stressed the obligation of Member States to protect the human rights of all migrants, regardless of their migration status, and called upon them to effectively promote and protect those rights.

⁷ See [A/HRC/36/42](#); see also Office of the United Nations High Commissioner for Human Rights (OHCHR), *Migration and Human Rights: improving human rights-based governance of international migration*, box 1, pp. 15–16.

Member States have further committed to fully protect the human rights of all migrants as rights-holders across all stages of the migration process in, inter alia, the New York Declaration for Refugees and Migrants⁸ and in the Global Compact for Safe, Orderly and Regular migration (hereafter Global Compact for Migration).⁹

10. At the same time, it is important to recall that all States have a sovereign right to determine who to admit to their territory, subject to their international legal obligations. States also have rights and responsibilities to manage and control their borders. The implementation of such rights and responsibilities is, however, subject to relevant obligations under international law, including human rights law and international refugee law.

B. International cooperation

11. Emphasizing the multidimensional character of international migration, the General Assembly, in resolution 72/179, called upon States to address international migration through cooperation and dialogue, including a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination, granting priority to the protection of the human rights of all migrants and avoiding approaches that might aggravate their vulnerability (paras. 1 and 9).

12. The General Assembly also encouraged Member States to promote the effective implementation of the 2030 Agenda for Sustainable Development, including its target for the facilitation of orderly, safe, regular and responsible migration and mobility of people (para. 9 (b)), reaffirmed the commitments of the New York Declaration for Refugees and Migrants and urged Member States and the United Nations system to work cooperatively to follow up on and apply the Declaration, in accordance with national legal systems (para. 11).

13. The adoption of the Global Compact for Safe, Orderly and Regular Migration in December 2018 marked an important milestone in international cooperation on international migration. The Global Compact is a landmark framework for international cooperation on migration in all its dimensions and by all relevant actors, which acknowledges that no country can address the challenges or harness the opportunities of international migration alone because of the inherent transnational nature of the phenomenon and recognizes that international, regional and bilateral cooperation and dialogue are needed to optimize the benefits of migration while addressing risks and challenges for individuals and communities in countries of origin, transit and destination.

14. The Global Compact for Migration does not create new human rights obligations; it rests fully on the existing obligations of States under international law, including their obligations under the Universal Declaration of Human Rights and the nine core international human rights instruments, among other relevant frameworks.¹⁰ It aims to mitigate the adverse drivers and structural factors that compel people to migrate and to reduce the risks and vulnerabilities faced by migrants at different stages of migration by respecting, protecting and fulfilling their human rights and by providing them with appropriate care and assistance. In doing so, it places the dignity and human rights of migrants and societies at the core, while recognizing that States have the sovereign prerogative to determine their national migration policy and govern migration within their jurisdictions, in conformity with international law.

⁸ Resolution 71/1, paras. 5 and 41.

⁹ Resolution 73/195, annex, paras. 4 and 14.

¹⁰ Ibid., paras. 1, 2, 6 and 7.

15. The Global Compact for Migration lays out a cooperative framework comprised of 23 objectives and a range of concrete practices for action, thus presenting a unique opportunity to implement a comprehensive and human rights-based framework for the governance of international migration and to continue the multilateral dialogue on international migration under the auspices of the United Nations. It also provides an opportunity to periodically follow up on and review practical actions taken and lessons learned through the International Migration Review Forum, beginning in 2022. Ultimately, the cooperative framework will help to bridge shared values and commitments on the one hand with the practical objectives and concrete actions necessary to realize them on the other, for the benefit of millions of people in every region of the world.

C. Human rights issues

16. The following section describes selected human rights issues addressed by the General Assembly in resolution 72/179, which are critical for the effective promotion and protection of the human rights of all migrants:

1. Confronting xenophobia and hostility towards migrants

17. Public narratives on migration, marked by xenophobia, misperceptions and misinformation, can have negative repercussions on the human rights of migrants.¹¹ They can create, perpetuate and exacerbate distorted perceptions of migration and may lead to exclusion or violence against migrants and minorities associated with migration, as well as human rights defenders or those who show solidarity with migrants. They may also result in policies that undermine the human rights protection of migrants, including the criminalization of irregular migration, increased use of arbitrary detention and policies that impede migrants' access to services and justice.

18. The recently launched United Nations Strategy and Plan of Action on Hate Speech is an important step, inter alia, in the fight against xenophobia and hostility towards migrants. It provides a United Nations system-wide programme, which has an overarching objective of identifying, preventing and confronting hate speech, including against migrants.¹²

19. In resolution 72/179, the General Assembly expressed concern at the increasing trend of xenophobia and hostility towards migrants in societies, recognizing that such trends have a negative impact on the fulfilment of human rights globally, condemned acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against migrants and urged States to apply and reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or other violent expressions against migrants occur, with the aim of eradicating impunity and providing effective remedy to victims.

20. In the Global Compact for Migration, Member States committed to eliminate all forms of discrimination and to condemn and counter expressions, acts and manifestations of racism, racial discrimination, violence, xenophobia and related intolerance against all migrants, while protecting freedom of expression and promoting an open and evidence-based public discourse on migration and migrants, in partnership with all parts of society, that generates a more realistic, humane and constructive perception in this regard.

¹¹ A/HRC/32/50, para. 30.

¹² United Nations Strategy and Plan of Action on Hate Speech, available at: <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

2. Eliminating discriminatory treatment of migrants and providing access to services

21. In resolution [72/179](#), the General Assembly also acknowledged the need to promote the dignified, humane treatment of migrants, including their access to basic services, and urged Governments to combat discrimination against migrants. It expresses concern about the denial of rights and justice to migrants who have suffered abuse in the context of organized crime. It encouraged States to establish or strengthen mechanisms allowing migrants to report abuse without fear of reprisal and to eliminate discriminatory policies and legislation that deny migrant children access to education.

22. Similarly, the Global Compact for Migration upholds the principle of non-discrimination and includes the commitment to ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services and calls on States to issue adequate documentation as a means to empower migrants to effectively exercise their human rights.

3. Protecting and assisting migrants in vulnerable situations

23. Across migratory routes worldwide, migrants seek to cross international borders for a variety of complex and interconnected reasons. As recognized in the New York Declaration for Refugees and Migrants, many move to escape poverty, discrimination, the adverse impacts of climate change or other factors, which may include lack of access to health, education or adequate food. Many move for a combination of these reasons. While they may not qualify for the protections provided under international refugee law, it has been increasingly recognized that such migration is not necessarily voluntary or safe.¹³

24. While it is important to reiterate that migrants are not inherently vulnerable, the circumstances and experiences that many face may create situations in which they are at a heightened risk of harm: some migrants are in vulnerable situations because of circumstances in their countries of origin; others may find themselves in vulnerable situations as a result of circumstances faced in transit, at borders or in countries of destination; and some migrants are at heightened risk due to individual characteristics, including their age, sex, gender identity or health status.¹⁴

25. In resolution [72/179](#), the General Assembly expressed deep concern at the large and growing number of migrants in vulnerable situations, recognized the obligation of States to respect their human rights and also recognized the importance of protecting migrants in vulnerable situations and of coordinating international efforts to provide them with assistance and support.

26. In the Global Compact for Migration, Member States recognized that situations of vulnerability may arise from the circumstances in which migrants travel or the conditions they face in countries of origin, transit and destination, and commit to assist them and protect their human rights, in accordance with their obligations under international law. To implement this commitment, the Global Compact further encourages States to develop policies and programmes to improve national responses that address the needs of migrants in situations of vulnerability, including by taking into consideration relevant recommendations of the principles and guidelines,

¹³ See resolution [71/1](#), para. 53; [A/72/643](#), paras. 4 and 47–50; and [A/HRC/33/67](#), paras. 4 and 15.

¹⁴ The Human Rights Council has expressed “serious concern also about the particular vulnerable situations and risks faced by migrants, which can arise from the reasons for leaving country of origin, circumstances encountered by migrants en route, at borders and at destination, specific aspects of a person’s identity or circumstance or a combination of these factors” (see Human Rights Council resolution [35/17](#)).

supported by practical guidance, on the human rights protection of migrants in vulnerable situations, as developed by the Global Migration Group under the leadership of OHCHR.¹⁵

4. Promoting and protecting the human rights of migrant women

27. While migrants of all genders may experience human rights violations and abuses, migrant women and girls are often affected because of their gender. Migrant women and girls often experience greater barriers and heightened risks of human rights violations and abuses throughout the migration cycle.¹⁶ This may include: risks of sexual and gender-based violence; trafficking in persons; forced labour, exploitation and abuse; discrimination, including sex-specific limitations or bans on women's freedom of movement; and discrimination in accessing services. Furthermore, as underlined by the Committee on the Elimination of Discrimination against Women, migrant women often face multiple and intersecting forms of discrimination based on a number of interconnected characteristics, including gender, migration status, age, nationality, religion, marital and family status, sexual orientation and gender identity.¹⁷

28. In resolution 72/179, the General Assembly gave special attention to migrant women and encouraged all States to develop migration policies and programmes that included a gender perspective in order to better protect women and girls against dangers and abuse during migration and to ensure that all women are legally protected against violence and exploitation.

29. The Global Compact for Migration also recognizes human rights-based and gender-responsive approaches as core guiding principles, emphasizing the need to ensure the empowerment and agency of migrant women and girls, rather than viewing them through a lens of victimhood.¹⁸

5. Criminalization and arbitrary detention of migrants

30. Some States continue to criminalize migrants for irregular entry, stay or exit. In particular, in a number of situations around the world the use of arbitrary detention is not the exception but the rule. Far from being used as a measure of last resort, based on an individualized assessment, immigration detention is routine and, in some cases, even mandatory. It often lacks fundamental procedural safeguards, judicial review or the ability to challenge the legality of the detention. It frequently takes place in conditions that fail to meet minimum standards and that may amount to torture or ill-treatment.¹⁹ Such detention is arbitrary and damaging to the health, well-being and human rights of migrants. Immigration detention – even for very short periods – is not in the best interests of the child and is a child rights violation.²⁰

¹⁵ OHCHR and the Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*, Geneva, 2018; see also [A/HRC/37/34/Add.1](#).

¹⁶ See resolution [48/104](#); see also [A/HRC/35/10](#), paras. 4 and 44–45.

¹⁷ Committee on the Elimination of Discrimination against Women, general recommendation No. 26, on women migrant workers ([CEDAW/C/2009/WP.1/R](#)), para. 14; see also United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Policy Brief No. 4, “Making gender-responsive migration laws”, 2017; and resolution [71/1](#), para. 31.

¹⁸ See OHCHR and the Global Migration Group, *Principles and Guidelines*; see also UN-Women, in consultation with the expert working group for addressing women's human rights in the Global Compact for Migration, “Policies and Practice: A Guide for Gender-Responsive Implementation of the Global Compact for Migration”.

¹⁹ [A/HRC/37/50](#), paras. 17–29.

²⁰ [CMW/C/GC/4-CRC/C/GC/23](#), para. 5.

31. In its resolution 72/179, the General Assembly expressed concern at measures which, including in the context of policies aimed at reducing irregular migration, treat irregular migration as a criminal rather than an administrative offence, where the effect of doing so is to deny migrants the full enjoyment of their human rights. It further recalled that sanctions and the treatment given to irregular migrants should be commensurate with their offences. The Assembly called upon States to put an end to arbitrary arrest and detention of migrants, to prevent and punish all forms of illegal deprivation of liberty, to pursue alternatives to detention and to work towards ending the immigration detention of children, consistent with the best interests of the child.

32. In the Global Compact for Migration, Member States committed to use immigration detention only as a measure of last resort, to individually assess whether this measure is lawful, proportionate and necessary and, when necessary, to ensure that such detention follows due process and takes place for the shortest possible period of time. States further committed to prioritize non-custodial alternatives to detention. Moreover, the Global Compact invited States, inter alia, to review laws to ensure the availability and accessibility of alternatives to detention for children in non-custodial contexts, favouring community-based care arrangements, and to work towards ending the detention of children in immigration settings.

6. Human rights at international borders

33. International borders are not “zones of exclusion” or spaces that exempt duty-bearers from their human rights obligations.²¹ Nevertheless, at land, sea and air borders around the world, migrants often experience discrimination and violence, including unlawful profiling, violations of the right to privacy, disproportionate use of force, dangerous interception practices, sexual and gender-based violence, collective expulsion, ill-treatment and arbitrary detention.²² Thousands of migrants lose their lives every year at international borders.²³

34. In resolution 72/179, the General Assembly expressed concern about legislation adopted by some States that results in measures and practices that may restrict the human rights of migrants, and reaffirmed that, when exercising their sovereign prerogative to enact and implement migration governance and border management measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants. In the resolution, the Assembly further requested States to ensure that their national procedures at international borders protect the dignity, safety and human rights of all migrants and to take concrete measures to prevent violations of the human rights of migrants in transit, including at ports, airports, borders and migration checkpoints. The Assembly also underlined the importance of adequately training public officials on their obligations under international human rights law, including respect for the principle of non-refoulement, and the identification and special protection of migrants in vulnerable situations, including children, in line with their best interests.

35. In this regard, Member States committed, in the Global Compact for Migration, to implement border management policies that respect obligations under international law and the human rights of migrants, regardless of their migration status, in a non-discriminatory, gender-responsive and child-sensitive manner, and agreed to take into consideration recommendations arising from relevant consultations. Member

²¹ A/69/277, para. 58.

²² OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*; OHCHR, *Situation of migrants in transit*; A/HRC/31/35, paras. 19–62.

²³ International Organization for Migration, Missing Migrants Project (<https://missingmigrants.iom.int/>).

States further pledged to facilitate and cooperate on safe and dignified return and to guarantee due process, individual assessment and effective remedy, including by upholding the prohibition of collective expulsion and the principle of non-refoulement.

7. Addressing trafficking in persons and the smuggling of migrants

36. A lack of pathways for regular migration coupled with restrictive entry requirements may create conditions and incentives for migrants to rely on smugglers to facilitate their movement. Because of the unequal power relationship, smuggled migrants may be at greater risk of falling prey to human trafficking and other human rights violations.²⁴ Smuggled migrants can be at particular risk of abuse and exploitation, including being forced into situations of trafficking, which is always a human rights violation.²⁵

37. Migrants' human rights may also be adversely impacted by measures aimed at combatting trafficking or smuggling when such measures fail to prioritize the rights and protection of migrants and are instead principally concerned with deterring or punishing irregular migration. Migrants who have suffered human rights violations as a result of trafficking or smuggling require protection and assistance. Similarly, those who provide migrants with such protection and assistance, including humanitarian actors, should never face criminal prosecution or other reprisals for doing so.²⁶

38. In its resolution [72/179](#), the General Assembly called upon States to recognize that the crimes of trafficking and smuggling may endanger the lives of migrants or subject them to harm and therefore encouraged States to protect migrants from becoming victims of national and transnational organized crime, including through the implementation of policies and programmes that prevent victimization of migrants and that guarantee their protection and access to medical, psychosocial, legal and other assistance, regardless of their migration status. The Assembly also called upon States to ensure that their laws and policies on trafficking and smuggling fully respect the human rights of migrants.

39. In the Global Compact for Migration, Member States committed to address migrant smuggling and trafficking in persons, with full respect for their obligations under international law, ensuring that migrants are not criminalized for having been subjects of trafficking or smuggling and that all migrants who have been trafficked or suffered other human rights violations in the context of trafficking or smuggling are provided with assistance, including prompt identification and protection (resolution [73/195](#), annex, paras. 25 and 26).

III. Summary of information received from Governments with regard to the implementation of resolution [72/179](#)

40. Replies concerning the implementation of General Assembly resolution [72/179](#) were submitted by Member States and intergovernmental and non-governmental organizations. As of 19 July 2019, written submissions were received from the

²⁴ Inter-Agency Coordination Group against Trafficking in Persons, "Trafficking in Persons in Humanitarian Crises", Issue 2, 2017; Special Representative of the Secretary-General for International Migration, Issue Brief #5, "Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims", 2017.

²⁵ [A/HRC/31/35](#), paras. 55–62.

²⁶ See [A/HRC/41/44](#); see also OHCHR and the Global Migration Group, *Principles and Guidelines*, principles 4, 13 and 18.

following Member States: Azerbaijan, El Salvador, Iraq, Italy, Spain, Ukraine and Uruguay. Summaries of the responses are provided below. Many of the issues raised in the responses submitted by intergovernmental and non-governmental organizations have been integrated into the previous section. The full texts of the responses are available on the OHCHR migration and human rights website.²⁷

A. Azerbaijan

41. The Government reported that it is taking steps towards ensuring the protection of the human rights of all migrants, including by acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and, taking into account the importance of international cooperation, adopting the Global Compact for Migration.

42. The Government noted that all migrants enjoy equally all of the rights as the citizens of Azerbaijan, including freedom of movement, work, education and health care.

43. The Labour Code provides that migrants shall enjoy the same rights as citizens and prohibits labour discrimination against migrants. The Government further noted that migrant workers enjoy access to free secondary education and are entitled to the provision of pensions on equal terms with citizens.

44. The law on the protection of the health of the population provides migrants with the same rights as citizens in the field of health care, including the provision of free immediate oncological aid and compulsory medical exams for children.

45. A training centre of the State migration service organizes free training courses for migrants on the Azerbaijani language, history and culture, as well as on the rights of migrants. The State Migration Service also provides a 24-hour call centre and mobile application for access to information and migration services.

B. El Salvador

46. The Government of El Salvador reported on a number of initiatives to promote respect, protection and the rights of all migrants and their families.

47. The Government reported that the special act on the protection and development of Salvadoran migrants and their families, adopted in 2011, had been reformed in 2019 to broaden the principle of the best interests of the child and to modernize migration-related procedures to provide improved human-rights guarantees for migrants and their families. The revised law incorporates a number of rights in the context of return, including a prohibition on deporting pregnant women when such return may endanger their health, and minimum requirements in the context of deportation.

48. In 2017, El Salvador adopted a national policy seeking to protect the rights of Salvadoran migrants and their families throughout the migration cycle, including: equality and non-discrimination; protection, including for populations in vulnerable situations; and the best interests of children and adolescents. The Government also reported on legislation and policies on trafficking in persons.

49. The Government provided information regarding the law on the comprehensive protection of childhood and adolescence and the national policy on the issue. The

²⁷ The full texts of most submissions are available at: www.ohchr.org/EN/Issues/Migration/Pages/ReportGA74.aspx.

Government also reported on measures established to ensure the care and protection of Salvadoran migrant children and adolescents.

50. The Government reported that the Directorate General of Migration has set up a comprehensive care shelter for migrants, which is aimed at protecting the rights of migrants in an irregular situation within El Salvador. The Government highlighted that the shelter is not a place where migrants are deprived of their personal liberty and that migrant children and adolescents are not separated from their parents or persons accompanying them.

51. In order to comprehensively address the rights of all adult migrants in the context of return, the Government provided information on its “Welcome home programme”, which establishes an inter-institutional mechanism for the reception and immediate assistance of returning Salvadorans.

52. Within the Regional Conference for Migration, an agenda has been established to assist migrants in vulnerable situations. The Government of El Salvador participated in the creation of an ad hoc group on migrant children and adolescents, leading to the establishment of a network of liaison officers and a plan for the protection of migrant children and adolescents.

53. Together with countries in the northern triangle of Central America and Mexico, El Salvador participates in the Tricamex initiative, a consular coordination group that promotes the exercise of consular diplomacy in order to improve the provision of consular services for the citizens of participating countries.

54. El Salvador also maintains a cross-border network of consular officials in border areas where migrants are in situations of increased vulnerability. There are 24 consular representations in the jurisdictions of Mexico and the United States of America that work to provide consular protection to the population living abroad and identifying possible violations of migrants’ human rights.

55. The National Council for the Protection and Development of the Migrant Person and Family, an inter-institutional body that includes the participation of civil society organizations and migrants themselves, helps to ensure that migrants’ rights are upheld.

C. Iraq

56. The Government of Iraq reported that, in accordance with the vision and policy of the Ministry of Displacement and Migration on displaced persons and migrants, it seeks to respect the rights of all migrants and to reject any form of forced return, taking into consideration the individual circumstances and situation in migrants’ countries of origin.

57. The Government indicated rejecting all forms of racial or sectarian discrimination.

58. The Government further indicated, among the other human rights of migrants, priorities in ensuring freedom of movement, access to employment and decent livelihoods.

D. Italy

59. The Government of Italy reported on the reform of Law-Decree No. 113/2018, as converted into law with amendment by Act. No. 132 of 2018, defining the forms

of humanitarian protection and supplementary international protection available to migrants.

60. The Government reported that the reforms are in compliance with Italy's international obligations to respect the principle of non-refoulement under international human rights law, including its obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government further referred to special cases under which a residence permit for humanitarian purposes can be issued, including: for medical treatment; in instances of exceptional natural disasters that do not allow for return and stay under conditions of safety; and for acts of particular civic value. The reform also frames special cases attributable to humanitarian needs, as well as pre-existing residence permits for victims of trafficking, domestic violence and labour exploitation.

61. The Government indicated that Law-Decree No. 113/2018 should not be understood to reduce the legal guarantees or procedural safeguards available to all migrants, regardless of their migration status.

62. With regard to unaccompanied migrant children, the Government reported that the reform would not affect the prohibition of expulsion and refoulement or the issuance of residence permits for children for family reasons, and added that the principle of the best interests of the child informs all Italian legislation.

63. The Government reported that the exploitation of migrant labour, particularly in the agricultural sector, is a concern and that an "institutional group" has been set up to address the phenomenon. Specific objectives include: promoting legal working conditions; supporting the reintegration of victims of exploitation in agriculture; and preventing the potential victimization of migrants, including through the improvement of accommodation and access to health care.

E. Spain

64. The Government of Spain indicated that its priorities in the field of migration include strengthening international cooperation with countries of origin, transit and destination to address irregular migration, to ensure compliance with international law and to uphold the rights of all migrants.

65. The fifth master plan for Spanish cooperation seeks to achieve target 10.7 under Sustainable Development Goal 10 through the promotion of safe, orderly and regular migration and the training of the staff of relevant institutions in a human rights- and human-security-based approach, giving special attention to unaccompanied children.

66. The Spanish Agency for International Cooperation for Development is working with the National Human Rights Council of Morocco on a project to strengthen the ability of the National Council to prevent and respond to racism and xenophobia towards migrants from a human rights- and gender-based approach. The Government also indicated that the Agency is cooperating with countries in West Africa, the Sahel and North Africa to address adverse drivers of migration, including lack of employment.

67. The Government reported that, since 2015, various programmes have been carried out aimed at facilitating the integration of migrants, with special attention to labour market integration, non-discrimination and humanitarian needs.

68. The Government also indicated that it has continued providing programmes for the reception of newly arrived migrants, including ensuring their access to housing, legal aid, education and health care, as well as support and care for victims of

trafficking and gender-based violence. They also reported on the continued promotion of equality and non-discrimination.

F. Ukraine

69. The Government of Ukraine reported that national law endeavours to ensure that migrants enjoy the same rights and freedoms as citizens, in accordance with international law. They provided an overview of the normative and policy frameworks governing migration, including the laws on immigration and on refugees and persons in need of subsidiary or temporary protection, which seek to uphold the rights of all migrants, regardless of their migration status, and to ensure access, inter alia, to information, accommodation, food, medical assistance and freedom of movement.

70. The Government also provided an overview of the 2015 National Strategy for Human Rights, which has a particular focus on ensuring the rights of migrants, including a strategic goal to resolve any issues migrants may have while staying in Ukraine. To achieve this, in its strategy the Government recommends training programmes for medical and other staff concerning cultural and religious characteristics of migrants, the provision of free legal assistance, the drafting of a procedure for registration and the issuance of travel certificates for migrants travelling abroad.

G. Uruguay

71. The Government of Uruguay indicated that it has ratified the core international human rights instruments and their optional protocols, creating a strong normative framework for respecting the rights of all migrants and their families, regardless of migration status.

72. Law No. 18.250 of 2008 and its regulatory decree 394/09 of 2009 governing international migration in Uruguay recognize the right to migration as an inalienable right of all migrants, and the principle of non-discrimination in access to health education, and justice for all migrants, regardless of their migration status.

73. The Government reported on its framework on migration policy of 2016, by which it established the strategic direction of the national policy based on the following principles: recognition and respect for the rights of all migrants; equal treatment and enjoyment of rights between nationals and non-nationals; non-discrimination; sociocultural integration; respect for diversity and cultural identity; gender equality; and the protection of migrants in vulnerable situations. One of the pillars of the policy is the facilitation of access to legal residence and identity, which allows for the documentation of all migrants.

74. The Government reported that it has increased human and financial resources and strengthened inter-institutional collaboration to improve the regularization of and access to documentation. Under Law No. 19.254, all nationals of States parties belonging to the Southern Common Market (MERCOSUR) and associates are granted permanent residence, together with members of their families, thus reducing the risks of vulnerability associated with irregular migration status, as well as non-discriminatory access to public services.

75. With the promulgation of Law No. 19.355, the Government also has the ability to grant residency to migrants who remain in the country in an irregular situation and who are in a “special situation of vulnerability”. This is understood to mean any condition in which the person does not have appropriate resources to obtain their

migratory regularity, and that such condition threatens or impairs access to fundamental rights.

76. With the aim of guaranteeing access to education for all migrants, the Government reported that, in 2018, it created a space in which migrants can seek advice on access to education.

77. Actions have also been taken to ensure the inclusion of all migrants in social programmes and public services, as well as to combat discrimination, xenophobia, racism and racial discrimination.

78. The Government also reported that it has adopted Law No. 19.643 on standards for the prevention and combatting of trafficking in persons.

IV. Conclusion and recommendations

A. Conclusion

79. **A human rights-based approach to migration governance places migrants at the centre of migration laws and policies. Such an approach is also based on a whole-of-government and whole-of-society approach, ensuring that the rights of migrants are reflected in all relevant national action plans and strategies. A human rights-based approach leads to better and more sustainable outcomes for migrants and communities of origin, transit and destination.**

80. **Migration laws and policies that prioritize the protection of human rights, including the principles of equality and non-discrimination, reduce inequalities within and across societies. They therefore have a critical role to play in achieving the Sustainable Development Goals.**

81. **With the adoption of the Global Compact for Safe, Orderly and Regular Migration, Member States have endorsed a road map for human rights-based governance of international migration. The success of the Global Compact will ultimately rest on its implementation at the local, national and regional levels through the development of inclusive, human rights-based and gender-responsive national implementation plans, in line with General Assembly resolution [72/179](#) on the protection of migrants.**

B. Recommendations

82. The Secretary-General welcomes the information received from Member States and intergovernmental and non-governmental organizations, including information concerning legislation, regulations and policies to strengthen the protection of the human rights of all migrants, and in that regard:

(a) **Underscores the importance of international cooperation and dialogue on migration and human rights and the need for a comprehensive, balanced, human rights-based and gender-responsive approach to migration governance that places migrants at the centre;**

(b) **Underlines that States parties to the core international human rights instruments have an obligation to respect, protect and fulfil the human rights of all migrants under their jurisdiction, regardless of their nationality or migration status, consistent with the principle of non-discrimination;**

(c) **Encourages States to ratify and implement all international human rights instruments, including the International Convention on the Protection of**

the Rights of All Migrant Workers and Members of their Families, and to ensure that migration policies are grounded in international human rights norms and standards;

(d) Recalls the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants, as underlined in resolution 72/179, and, in this regard, encourages Member States to include in their national reports to the universal periodic review mechanism and to the human rights treaty bodies and special procedures, information on measures to protect the human rights of all migrants, regardless of migration status;

(e) Calls upon States to eliminate racism, racial discrimination, xenophobia and related intolerance against migrants, inter alia, by: addressing prejudice and social stigmatization of migrants; using accurate, neutral and gender-sensitive language and imagery to describe migrants and migration; repealing or amending laws, policies and practices that may give rise to discrimination against migrants; and robustly addressing any such acts against migrants;

(f) Also calls upon States to take positive measures to avoid the marginalization and social exclusion of migrants, including by ensuring that migrants enjoy safe access to justice, effective remedies and to public services such as health care, housing, education, social security and decent work and, for this purpose, establish procedures and standards separating service providers and immigration enforcement authorities;

(g) Highlights the importance of ensuring meaningful human rights protection of all migrants in vulnerable situations, taking due consideration of the principles and guidelines on the human rights protection of migrants in vulnerable situations provided by OHCHR in collaboration with other partners in the United Nations system;

(h) Underlines that criminalizing people for crossing or attempting to cross borders is often a disproportionate measure, and therefore encourages States to ensure that detention is never arbitrary and is used only as a measure of last resort, to end any detention of children for reasons related to their, or their parents', migration status and to prioritize non-custodial, human rights-based alternatives to detention;

(i) Encourages States to enhance availability and flexibility of pathways for regular migration, strengthen efforts to prevent human trafficking and migrant smuggling, while ensuring that such measures prioritize the identification, protection and assistance of affected migrants, and refrain from criminalizing migrants for being the victims of trafficking or the object of smuggling;

(j) Calls upon States to ensure that all returns of migrants are carried out in strict accordance with the principle of non-refoulement, ensuring due process and procedural safeguards;

(k) Welcomes the adoption by the General Assembly of the Global Compact for Migration as a landmark cooperative framework addressing migration in all its dimensions and placing individuals and their human rights at its core;

(l) Reiterates the commitment of the United Nations system to ensuring, through the United Nations Network on Migration, effective, timely and coordinated system-wide support to Member States in their implementation, follow-up and review of the Global Compact for Migration, and for the rights and well-being of all migrants and their communities of destination, origin and transit.