

ACHPR/Res.114(XXXII)07: RESOLUTION ON MIGRATION AND HUMAN RIGHTS

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that Sub-Saharan African countries are experiencing population movements by a number of different categories of people: workers, refugees and internally displaced persons (IDPs), of whom one third of the estimated 200 million migrants worldwide are from Africa, a third of all refugees, and about half the IDPs in the world, are within Africa;

Concerned that woman constitute 47% of all migrants within sub-Saharan Africa and that women and children constitute 70% of the refugees and IDPs on the continent;

Considering the scope of the violations of the rights guaranteed by the African Charter on Human and Peoples' Rights surrounding the question of migration, namely violation of the right to life, the right to free movement of the person, the obligation to protect civilians, discriminations, etc.;

Recalling the appointment during the 34th Ordinary Session of the African Commission on Human and Peoples' Rights, of a Special Rapporteur on Refugees, Asylum Seekers and Internally displaced Persons in Africa, whose mandate was renewed during the 40th session, to cover migrant issues;

Recalling the experts' meeting organised by the African Union (AU), on migration and development in April 2006, in Algiers, and recalling the decision of the AU Executive Council held in January, 2007, calling for the organisation of a Special Summit on Refugees, Repatriated and Internally Displaced Persons in 2008;

Recommends to State Parties to the African Charter on Human and Peoples' Rights:

1. To recognize the importance of the human rights of all migrants, including refugees and IDPs, and to ensure that national legislation relating to migration issues is consistent with and does not conflict with international human rights standards and conventions;
2. Those States which have not done so, to ratify and implement the main regional and international instruments relating to migrants and refugees,

in particular, the Geneva Convention relating to the Status of Refugees, the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their families and the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa; implement the Protocol to the African Charter on the Rights of Women, as well as the UN Convention on the Elimination of All Forms of Discrimination Against Women and its Additional Protocol allowing individual complaints or communications, in order to respect the rights of migrant women;

3. To respect the principle of customary international law of *non-refoulement*, to make legal requirements for entering a territory more flexible, in order to take into account the needs for asylum seekers; to revoke the notion of “safe third country”; to strengthen institutional structures for addressing and managing individual asylum requests; to respect the right of asylum seekers to contest rulings on asylum status; and to improve the reception structures and processes of refugees seeking asylum;
4. Commend the States of the Great Lakes Region, for adopting the Peace Pact in December, 2006, in particular, Burundi, Rwanda and DRC, for ratifying the Peace Pact and urge other State Parties to ratify the Peace Pact;
5. Urges the AU to finalize the adoption of the Convention on the Prevention of Internal Displacement and the Protection of and Assistance to Internally Displaced Persons in Africa;
6. Provide the Special Rapporteur of the African Commission on Human and Peoples’ Rights with resources, in order to facilitate the discharge of his mandate;
7. Urge States Parties to the African Charter, to ensure that the issue of migrations are included in their periodic reports, presented under Article 62 of the African Charter.