

ACHPR/Res. 333 (EXT.OS/XIX) 2016: Resolution on the Situation of Migrants in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session, held from 16 to 25 February 2016 in Banjul, The Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the provisions of Article 5 of the African Charter, which guarantee every individual the right to the respect of the dignity inherent in a human being and consequently prohibit all forms of exploitation and degradation of man, in particular, human trafficking, physical or mental torture, cruel, inhuman or degrading punishment or treatment;

Recalling its resolutions ACHPR/Res.114 (XXXII) 07 and ACHPR/Rés.131(XXXIII) 08 on the situation of migrants;

Considering the provisions of the relevant international and regional instruments concerning arrests and detention, in particular, the Guidelines on the Conditions of Arrest, Custody and Preventive Detention in Africa adopted by the African Commission on Human and Peoples' Rights at its 55th Ordinary Session held in Luanda, Angola from 28 April to 12 May 2014 ;

Bearing in mind its Statement on the Deteriorating Situation of Migrants in the Mediterranean Sea made at its 56th Ordinary Session held in Banjul, The Gambia;

Deeply concerned by the loss of many lives among migrants in recent months in the Mediterranean and by the scale of this phenomenon and the disastrous consequences on African populations;

Conscious of the many problems caused by the increase in migration flows at the regional level;

Concerned by the specific vulnerability of certain categories of migrant groups, especially women and children;

Deeply concerned by the difficult situations the growing number of unaccompanied child migrants are confronted with, including detentions, trafficking and the sexual exploitation;

Concerned by the extent of human rights violations of international and regional human rights instruments relating to migrants, in particular, the growing number of cases of detention of migrants under unbearable conditions in certain countries;

Recalling that the detention of undocumented migrants should only be applied as a last resort and that priority should always be given to the use of alternative measures, in particular, for families with children and unaccompanied children;

Condemning the network of smugglers who promote and benefit from the exploitation of migrants resulting in the deliberate endangering of their lives which constitutes a serious violation of their rights;

Recalling the joint commitments made by African States with countries of the European Union during the Malta Conference in November 2015 on migration, to strengthen the protection of migrants, and fight against human trafficking and cooperate on the issue of return and resettlement of migrants;

The Commission:

Calls on States Parties to:

1. Take appropriate measures to respect the human rights of all migrants and ensure that they receive all the necessary protection;
2. Adopt policies, and strategies for cooperation to guarantee the respect of migrants facing arrests and detentions, including migrants found in countries that are not States Parties to the African Charter;
3. Develop alternative approaches to the detention of child migrants and to ensure that in all actions, their best interest is taken into consideration;
4. Establish reporting mechanisms and facilitate the handling of requests for redress concerning cases of human rights violation against migrants; and
5. Ensure that the issue of migrants is incorporated into their periodic reports submitted in accordance with Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Urges the African Union to develop a strategic plan concerning the management of migratory flows and their consequences both at the regional and international level;

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016