

**ACHPR/Res. 398 (LXII) 2018: Resolution on Mixed Migratory Flows, Challenges of Protecting Migrants and the Prohibition of Trafficking in Persons and all forms of Violence in North and Sub-Saharan Africa**

***The African Commission on Human and Peoples' Rights, meeting at its 62<sup>nd</sup> Ordinary Session held from 25 April to 9 May 2018 in Nouakchott, Islamic Republic of Mauritania;***

***Recognizing*** its mandate to promote and protect human and peoples' rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

***Recalling*** the provisions of Article 12 of the African Charter, which guarantee the right to freedom of movement and residence for all individuals and prohibit the mass expulsion of non-nationals;

***Recalling*** the provisions of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and international instruments on the protection of migrants;

***Recalling further*** its Resolutions ACHPR/Res.114 (XXXXII) 07, ACHPR/Res.131 (XXXXIII) 08 and ACHPR/Res.333 (EXT.OS/XIX) 16 on the situation of migrants, as well as its Statement on the deteriorating situation of migrants in the Mediterranean adopted at its 56<sup>th</sup> Ordinary Session held in Banjul, The Gambia, and its press release of 22 November 2017 on trafficking in persons and slavery in Libya;

***Recalling*** the provisions of Article 3(h) of the Constitutive Act of the African Union relating to the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights, and Article 5 of the African Charter which condemns all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment;

***Recalling also*** that in the 2006 African Common Position on Migration and Development, the African Union considered that migration can be an effective tool in the fight against poverty by enhancing income distribution, promoting development and productive work for growth in Africa;

***Considering*** the steady increase in mixed migratory flows despite the various measures taken by States to separate asylum seekers from people who are not covered by international protection;

***Concerned*** about the recent migrant and Sub-Saharan refugee crisis in Libya and ***condemning*** the treatment of migrants subjected to trafficking in persons and auctioning;

**Appalled** by the growing number of cases of ill-treatment and other abusive and persistent violations, including police brutality during the expulsion of migrants, in particular unaccompanied children and women in several regions in North and Sub-Saharan Africa, notably in Algeria;

**Condemning** the transfer and confinement of a significant number of migrants in detention centres and/or prisons under shameful and inhuman conditions, under the guise that they are a serious threat to public order, internal security or risks related to organised crime and threats of terrorism;

**Emphasising** the need to adopt concrete and concerted measures for appropriate and lasting solutions to the issue of migration and the protection of migrants and their rights free of any coercive approach;

**Welcoming** the adoption by the African Union of the Protocol to the Treaty establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment, as well as the development of the African Union Migration Policy Framework for Africa and its Plan of Action;

The Commission:

1. Condemns trafficking in persons and the sale of migrants, as well as police brutality during the expulsion of migrants;
2. Calls upon States Parties to view migrants as an economic potential and not as an element of insecurity and to adopt the position of effective governance of migration;
3. Calls upon States Parties and the African Union to adopt the necessary measures to guarantee the protection of migrants, by coordinating their efforts in preventing trafficking in persons, forced labour and sexual exploitation;
4. Urges States Parties, in particular countries of North Africa, to find solutions together with countries of origin, and to introduce and enforce alternative measures to the detention of migrants, in particular vulnerable groups;
5. Calls upon States to declare their position on the non-derogability of the prohibition of the crime of slavery;
6. Calls upon States Parties to implement the Protocol to the Treaty establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment, as well as the African Union Migration Policy Framework for Africa and its Plan of Action;
7. Encourages States Parties to the African Charter to work with partners, including UNHCR, IOM and national Red Cross and Red Crescent organisations, towards the establishment of special mechanisms for the management of mixed migratory flows, in particular during migrant repatriation operations;

8. Calls upon States Parties to promote conventional cooperation ties in the prevention of irregular migration and the return of irregular migrants;
9. Urges Libya to authorise and facilitate the conduct of the fact-finding mission assigned by the Chairperson of the African Union Commission on the situation of migrants in Libya.

**Adopted at the 62<sup>nd</sup> Ordinary Session of the African  
Commission on Human and Peoples' Rights held in  
Nouakchott, Islamic Republic of Mauritania, from 25 April to  
9 May 2018**