

ACHPR/Res. 481 (LXVIII) 2021: Resolution on the Need for a Study on African Responses to Migration and the Protection of Migrants with a view to Developing Guidelines on the Human Rights of Migrants, Refugees and Asylum Seekers

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 68th Ordinary Session held virtually from 14 April to 4 May 2021

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

Considering its Resolutions ACHPR/Res.114(XXXII) 07 on Migration and Human Rights; ACHPR/RES.333(EXT.OS/XIX) 2016 on the Situation of Migrants in Africa and ACHPR/Res.470 (LXVII) 2020 on the Protection of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in the Fight against the HIV Pandemic in Africa;

Considering further the persistence and occurrence of armed conflicts in some countries, as well as the socio-economic constraints in many others, which compel a large number of young Africans to go into exile in others African countries and outside the continent;

Recalling the exponential increase in cases of irregular migration and the disastrous consequences that this entails.

Taking into account the numerous measures and action plans, including the African Union Plan of Action on Migration, instituted by the African Union to find solutions to this situation which has disastrous consequences for African countries that are gradually losing their youth and their future;

Noting also the situation of African migrants outside Africa who face multiple violations of their rights under the relevant international human rights instruments and the lack of adequate support from their States of origin;

Aware of the need to assess the effectiveness of all legal measures put in place to curb irregular migration, in the face of the unabated increase in migration;

Further aware of the importance of taking into account the many challenges surrounding migration, and the need to redefine strategies to respond effectively to them;

Deeply concerned by the extent to which rights guaranteed by the African Charter are violated against migrants from the time of departure from the country of origin to the time of arrival at the country of destination;

Bearing in mind the role of the Commission under Article 45 (1) (b) of the African Charter on Human and Peoples' Rights, which empowers it to

"formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation.

The Commission:

1. Reminds States of their treaty obligations and the commitments they have made by subscribing to the African Union norms and policies on the protection of asylum seekers, refugees and migrants on the Continent, in particular the 1969 AU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention);
2. Reminds States to recognize the importance of the human rights of all migrants, including refugees and internally displaced persons, and to ensure that national legislation on migration issues is consistent with and does not contradict international human rights standards and conventions;
3. Condemns all violations of the rights of asylum seekers, refugees and migrants, whether directly or indirectly;
4. Decides to conduct a study to assess African responses to migration with a view to developing principles and guidelines for the protection of the rights of migrants, asylum seekers and refugees in Africa;
5. Requests the Special Rapporteur on Refugees, Asylum Seekers, Displaced Persons and Migrants in Africa to
 - i. Conduct the study on African responses to the issue of migration and the protection of migrants in Africa
 - ii. (Develop principles and guidelines on the protection of the rights of migrants, asylum seekers and refugees based on the findings of the study

Done virtually, 4 May 2021