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Preparation Paper/Study Guide:

Human Rights Council (HRC)

"Treatment of Migrants, Refugees and Asylum-Seekers"

Content

1. Introduction to the Committee and its History

The Human Rights Council, composed of 47 states elected by the UN General Assembly, is a subsidiary body of the United Nations General Assembly and responsible for strengthening the promotion and protection of human rights around the world. Therefore it can discuss all thematic human rights issues and situations that require its attention throughout the year. The Council was established through the resolution 60/251 by the UN General Assembly on 15 March 2006 and replaced the former United Nations Commission on Human Rights.

In 2007 the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms. The Universal Periodic Review mechanism serves to assess the human rights situations in all United Nations Member States; the Advisory Committee provides the HRC with expertise and advice on thematic human rights issues; and the Complaint Procedure allows individuals and organizations to bring human rights violations to the attention of the Council. The Human Rights Council also assumed the UN Special Procedures established by the former Commission on Human Rights. These consist of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries.

The Council convenes for three sessions per year for a total period of no less than ten weeks[1]. The Geneva-based Council is also able to convene to deal with urgent situations, and to hold special sessions when necessary. Importantly, any Council member can call for a special session, and the support of only one-third of the Council membership is required to authorize the sitting.

2. Introduction to the Topic

The HRC will deal with the general treatment of migrants, refugees and asylum-seekers in all parts of the world. Asylum seekers, refugees and migrants are entitled to all the rights and fundamental freedoms that are spelled out in international human rights instruments. Their protection must therefore be seen in the broader context of the protection of human rights. The creation by States of two separate organisations to deal with human rights and refugees respectively, and the lack of an UN entity genuinely relating to migrants does not mean that these issues are not interrelated. The work of the United Nations in the field of human rights and that of the High Commissioner for Refugees is inextricably linked in the sense that both entities share a common purpose, which is the safeguarding of human dignity. The human rights programme of the United Nations deals with the rights of individuals in the territory of states. The refugee organisation was established in order to restore minimum rights to persons after they leave their countries of origin.

States are responsible for protecting the fundamental human rights of their citizens. When they are unable or unwilling to do so – often for political reasons or based on discrimination – individuals may suffer such serious violations of their human rights that they have to leave their homes, their families and their communities to find sanctuary in another country. Since, by definition, refugees are not protected by their own governments, the international community steps in to ensure their safety and protection. Also migrants leaving their country for reasons, such as employment, family reunification or study, deserve protection by the international community, even though migrants usually continue to enjoy the protection of their own government. Especially important in this context is the protection of asylum-seekers, who may leave their home countries due to various kinds and levels of persecution, but are not granted the legal status of a refugee.

The refugee issue continues to challenge the international community. While refugee-receiving States should maintain their commitment to the protection of refugees and encourage tolerance towards diversity, "refugee-giving" States have the duty to prevent acts that produce mass exoduses of their populations. At the same time the world needs to reach an agreement on how best to prevent new flows of refugees. The root causes of these situations should be further studied and rectified. If poverty is the major cause of refugee flows, some solutions could be found in development aid or technical assistance. If human rights violations are the principal causes of mass exoduses, solutions may lie in continuous monitoring by UN human rights bodies, condemnation of violations by the international community and the appointment of Special Rapporteurs to study specific situations and to make suggestions. If violent conflicts are the causes of flows, solutions may be found in preventive diplomacy, in the promotion of mediation as the means to conflict resolution and in respect for provisions of humanitarian law.

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[1]http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx.

2.1. Migrants

The term migrant can be understood as any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country[2]. However, this may be a too narrow definition when considering that, according to some states' policies, a person can be considered a migrant even when they are born in the country. The ICMW defines a migrant worker as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. From this a broader definition of migrants follows: The term 'migrant' should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor. This definition indicates that 'migrant' does not refer to refugees, displaced or others forced or compelled to leave their homes. Migrants are people who make choices about when to leave and where to go, even though these choices are sometimes extremely constrained. Indeed, some scholars make a distinction between voluntary and involuntary migration. While certain refugee movements face neither external obstacles to free movement nor is impelled by urgent needs and a lack of alternative means of satisfying them in the country of present residence, others may blend into the extreme of relocation entirely uncontrolled by the people on the move.

The dominant forms of migration can be distinguished according to the motives (economic, family reunion, refugees) or legal status (irregular migration, controlled emigration/immigration, free emigration/immigration) of those concerned. Most countries distinguish between a number of categories in their migration policies and statistics. The variations existing between countries indicate that there are no objective definitions of migration. A more common categorisation includes:

- Temporary labour migrants or (guest workers / overseas contract workers): people who migrate for a limited period of time in order to take up employment and send money home.
- Highly skilled and business migrants: people with qualifications as managers, executives, professionals, technicians or similar, who move within the internal labour markets of trans-national corporations and international organisations, or who seek employment through international labour markets for scarce skills. Many countries welcome such migrants and have special 'skilled and business migration' programmes to encourage them to come.
- Irregular migrants (or undocumented / illegal migrants): people who enter a country, usually in search of employment, without the necessary documents and permits.
- Forced migration: in a broader sense, this includes not only refugees and asylum seekers but also people forced to move due to external factors, such as environmental catastrophes or development projects. This form of migration has similar characteristics to displacement.
- Family members (or family reunion/family reunification migrants): people sharing family ties joining people who have already entered an immigration country under one of the above mentioned categories. Many countries recognise in principle the right to family reunion for legal migrants. Other countries, esp. those with contract labour systems, deny the right to family reunion.
- Return migrants: people who return to their countries of origin after a period in another country.

2.2. Refugees

The term refugee applies to any person who, due to *"a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term 'the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national".[3]*

Signatories to the Convention undertake to protect refugees by allowing them to enter and granting temporary or permanent residence status. The UNHCR and the Executive Committee of the High Commissioners Program have developed guidelines on the interpretation of the terms of this definition. In 1967 the Protocol Relating to the Status of Refugees incorporated post-1951 refugees and explicitly included those from outside Europe in the definition. Some countries, however, still define refugees by the geographic

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[2]http://www.unesco.org/most/migration/glossary_migrants.htm.

[3]1951 Geneva Convention, Art.1A (2).

limitations of the 1951 definition and do not recognize non-European refugees. In 1969 a convention of the Organisation of African Unity, applying only to African countries that have signed it, extended the definition to include as reason for refugee status "external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole" of a country. The Cartagena Declaration of 1984[4] broadened the scope of the refugee declaration in a similar manner for countries in Latin America. Based on these conventions, the refugee definition is commonly understood to include three essential elements:

- there must be a form of harm rising to the level of persecution, inflicted by a government or by individuals or a group that the government cannot or will not control;
- the person's fear of such harm must be well-founded — e.g. the U.S. Supreme Court has ruled that a fear can be well-founded if there is a one-in-ten likelihood of its occurring;
- the harm, or persecution, must be inflicted upon the person for reasons related to the person's race, religion, nationality, political opinion or membership in a particular social group (the nexus).[5]

Apart from the universal definition of 'refugees', many states have their own domestic laws, which have defined 'aliens' or 'refugees' as well. Section 101 (a) (42) of the US *Immigration And Nationality Act* (IMA); Section 13,14 (Part-2) of the 1958 *Australian Migration Act*; Section 2 of the 1951 *Pakistani Citizenship Act* etc., are examples of such laws. However, there are many newly formed states today, which lack a basic legal mechanism for establishing nationality, citizenship status and even refugee protection issues. Sudan and South Sudan are such examples, where due to political conflict more than two million refugees have been displaced, vehemently abused and yet their citizenship being undetermined.[6]

2.3. Asylum-seekers

Asylum seekers are people who move across borders in search of protection, but who may not fulfil the strict criteria laid down by the 1951 Convention. "Asylum seeker" describes someone who has applied for protection as a refugee and is awaiting the determination of his or her status, in comparison, „refugee" is the term used to describe a person who has already been granted protection. Asylum seekers can become refugees if the local immigration or refugee authority deems them as fitting the international definition of refugee. The definition of asylum seeker may vary from country to country, depending on the laws of each country. However, in most countries, the terms asylum seeker and refugee differ only in regard to the place where an individual asks for protection. Whereas an asylum seeker asks for protection after arriving in the host country, a refugee asks for protection and is granted this protected status outside of the host country.

2.4. The principle of Non-refoulement

Refoulement means the expulsion of persons who have the right to be recognised as refugees. The principle of non-refoulement is laid out in the UN-Convention relating to the Status of Refugees, in Art. 33 (1) as well as in Art. 3 (1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:[7]

"No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

It is important to note that the principle of non-refoulement does not only forbid the expulsion of refugees to their country of origin but to any country in which they might be subject to persecution. The only possible exception provided for by the Refugee Convention is the case that the person to be expelled constitutes a danger to national security. Although the principle of non-refoulement is universally accepted, problems with refoulement frequently arise through the fact, that its application requires a recognised refugee status. However, not all countries are members to the Refugee Convention or may not have established formal procedures for determining refugee status.

2.5 Xenophobia

The word xenophobia[8] comes from the Greek words *xénos*, meaning 'stranger' or 'guest' and *phóbos*, meaning 'fear'. Thus, xenophobia stands for 'fear of the stranger', but usually the term is taken to mean

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[4] http://www.oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf.
[5] http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/refugee/.
[6] Delegates may research on their respective country's immigration policies/citizenship acts.
[7] http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx.
[8] http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/xenophobia/

'hatred of strangers'.[9] Xenophobia can be understood as *"an attitudinal orientation of hostility against non-natives in a given population"* and *"attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity."*[10]

UNESCO pinpoints two main causes of xenophobia: The first one concerns new migration patterns due to gradual labour market internationalization during the postcolonial era. In the receiving countries social groups on the lower ladder of society consider newcomers as competitors for jobs and public services. The second cause is globalisation: Due to increased competition, certain states tend to reduce their services in areas of social welfare, education and healthcare. This particularly affects persons living on the margins of society. The direct competition with migrants for welfare services is then the main breeding ground for xenophobic and racist ideologies.[11] Those perceived to be outsiders or foreigners - often migrants, refugees, asylum-seekers, displaced persons, and non-nationals - are the main targets. Even though xenophobia and racism sometimes overlap, they are not congruent. Racism refers to physical characteristic differences, such as skin colour, hair type and facial features, whereas xenophobia implies the idea that the other is foreign to or originates from outside the community or nation.[12] The Durban Declaration[13] points out that xenophobia against non-nationals, and in particular, migrants, constitutes one of the main sources of contemporary racism.

2.6. Discrimination against migrants

According to the United Nations Convention on the Elimination of All Forms of Racial Discrimination, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Migrants are often discriminated against in housing, education, health, work or social security.[14] It is a global issue affecting the countries of origin, transit and destination. According to the Population Division of the UN Department of Economic and Social Affairs, 232 million people, or 3.2 per cent of the world's population, were international migrants in the year 2013, compared with 175 million in 2000 and 154 million in 1990.[15] Estimates showed that between 1945 and 1990, the number of migrants increased by around 45 million people per year. Migrants arriving irregularly in a new country and victims of trafficking stopped by the police are often detained in administrative centres or in prisons. Although the deprivation of liberty should be a last resort under international human rights law, migrants are often detained as a routine procedure and without proper judicial safeguards. Overcrowded immigration detention centres often have poor access to healthcare, inadequate food, sanitation or safe drinking water and a lack of separate sanitation facilities for men and women. Equally, there is an increasing tendency to criminalize migration offenses, which has, in some cases, resulted in violations of migrants' rights.

Today, one of the key obstacles hindering migrants' integration and equal access to human rights in host societies is persistent anti-migrant sentiments and discriminatory practices, which are often reinforced by legislation, regulations and policies to restrict migratory flows, as evidenced by the increasing tendency to criminalize irregular migration. The global economic crisis and rising unemployment have further aggravated these trends. Addressing negative perceptions of migrants within host communities is therefore a key element of promoting their integration and enhancing their contribution to development. Various international instruments, and in particular, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*[16] address the issue of discrimination and provide guidance on human rights safeguards. Special Procedures, treaty bodies and the UPR mechanism have also addressed these issues.

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[9]Smelser, N. J. and Baltes, P. B. (eds.) 2001. International Encyclopaedia of the Social and Behavioural Sciences. Elsevier. Oxford Science Ltd.
[10]Boehnke, Klaude in NGO Working Group on Migration and Xenophobia for the World Conference (in International Migration, Racism, Discrimination and Xenophobia, 2001. A publication jointly produced by ILO, IOM, OHCHR, in consultation with UNHCR. p. 2.
[11]NGO Working Group on Migration and Xenophobia for the World Conference (in International Migration, Racism, Discrimination and Xenophobia, 2001. A publication jointly produced by ILO, IOM, OHCHR, in consultation with UNHC.
[12]NGO Working Group on Migration and Xenophobia for the World Conference (in International Migration, Racism, Discrimination and Xenophobia, 2001. A publication jointly produced by ILO, IOM, OHCHR, in consultation with UNHCR.
[13]http://www.un.org/WCAR/durban.pdf.
[14]http://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination_migrants.aspx.
[15]http://esa.un.org/unmigration/wallchart2013.htm.
[16]http://www2.ohchr.org/english/bodies/cmw/cmw.htm.

3. Legal Aspects / Relevant UN action

Migration is a multifaceted phenomenon, and the legal regime dealing with its different aspects has developed at different stages. This sectoral approach is partly due to States' past reluctance towards discussing all aspects of migration in a comprehensive way. Despite this reality, the international legal framework, which incorporates international human rights law, the refugee regime, international labour standards and transnational criminal law is a solid framework for policymaking on migration. However, the inadequate implementation of these standards at the national level remains a major problem. Even today, many migrants all across the globe are massively exploited and devoid of their fundamental human rights. There are countless examples of inhuman activities where migrants, refugees and asylum-seekers are killed, abused or forced to work for no wages. Still, a number of states, which are already a successful party to certain conventions, have been found to violate basic duties towards refugees and their protection inside their borders as the Refugee Convention clearly demands. The lack of clear provision is also due to the fact that humanitarian concerns are often secondary to the determination to maintain national quotas and policies of appeasement to citizens.

There is no migration organization within the UN, and no coherent institutional framework governing migration exists. States continue to attempt to govern migration largely on a unilateral basis. This has led to a lack of coherence between global, regional and national governance and retreat from binding UN-based frameworks, with state preference for informal processes, such as the Global Forum on Migration and Development[17] and regional consultative processes. The International Organisation for Migration (IOM) promotes itself and is sometimes referred to as the global lead agency on migration. However, as yet, IOM does not have a comprehensive mandate on migration issues, and especially not a legal protection mandate enshrined in its Constitution, or a clear policy on protection. Its mandate focuses primarily on providing services to States, including in relation to the return of migrants. Different UN agencies and entities, such as OHCHR, ILO, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Department of Economic and Social Affairs of the Secretariat have mandates and expertise on a wide range of migration-related issues complementary to those of IOM.

The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950 by the UNGA. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country. It also has a mandate to help stateless people.

The United Nations Relief and Works Agency for Palestine Refugees' services encompass education, health care, relief and social services, camp infrastructure and improvement, microfinance and emergency assistance, including in times of armed conflict. Following the 1948 Arab-Israeli conflict, UNRWA was established by UNGA resolution 302 (IV) of 8 December 1949 to carry out direct relief and works programmes for Palestine refugees. In the absence of a solution to the Palestine refugee issue, the GA has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2017.UNRWA services are available to all those living in its areas of operations who meet this definition, who are registered with the Agency and who need assistance. When the Agency began operations in 1950, it was responding to the needs of about 750,000 Palestine refugees. Today, some 5 million Palestine refugees are eligible for UNRWA services.

3.1. The Universal Declaration of Human Rights

The UDHR[18], adopted in 1948, is the most significant UN document regarding Human Rights issues. It was drafted as 'a common standard of achievement for all peoples and nations. For the first time in human history this declaration names basic civil, political, economic, social and cultural rights that all human beings should enjoy. It has over time been widely accepted as the fundamental norms of human rights that everyone should respect and protect. The UDHR, together with the ICCPR[19] and its two Optional Protocols[20][21], and the ICESCR[22], form the so-called International Bill of Human Rights[23].

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[17]http://www.gfmd.org.
[18]http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.
[19]http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.
[20]http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx.
[21]http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx.
[22]http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx.
[23]http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf.

Art.3 UDHR explicitly mentions the right to life, liberty and security. However, guarantees of the security of person of those caught illegally trying to make the voyage across the Mediterranean, have often not been respected. In Art. 14, the declaration guarantees everybody the right to *seek and to enjoy in other countries asylum from persecution*. Art. 15 reiterates the right to having a nationality.

3.2. The Geneva Convention Relating to the Status of Refugees

The 1951 Geneva Convention Relating to the Status of Refugees[24] is the key legal document in defining who is a refugee, their rights and the legal obligations of states. It is both a status and right-based instrument and is underpinned by a number of fundamental principles, most notably non-discrimination, non-penalisation and non-refoulement. It also lays down basic minimum standards for the treatment of refugees without prejudice to states granting them more favourable treatment including access to courts, primary work, education including a travel refugee document.

The vital importance of the Refugee Convention is the provision of socioeconomic and civil rights, as the key to the integration process to the socioeconomic system of the country of asylum. Furthermore, in many areas refugees shall receive the most favourable treatment accorded to citizens under the national legislation of the country of asylum. Finally, the Convention aims to assimilate and naturalise refugees in receiving countries and thus, aims to bring their refugee status to an end[25].

3.3. The ICMW

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[26] of 1990 entered into force in 2003 and is the most comprehensive international treaty in the field of migration and human rights. The convention sets a standard in terms of access to human rights for migrants. However, it suffers from a marked indifference: only 47 states have ratified it and no major immigration country has done so (none of them major European states, though Italy has applied the standards to its national legislation without signing it)[27]. This highlights how migrants remain forgotten in terms of access to rights. Even though their labour is essential in the world economy, the non-economic aspect of migration – and especially migrants' rights– remain a neglected dimension of globalisation. The ICMW seeks to establish minimum standards that the States parties should apply to migrant workers and members of their families, irrespective of their migratory status.

Dealing with Non-discrimination with respect to rights, it partly overlaps with the aforementioned UDHR. It grants a fairly broad series of rights to all migrant workers and members of their families, irrespective of their migratory status. Many of these articles specify the application to migrant workers of rights spelled out in the ICCPR, ICESCR and other core human rights treaties. The Convention also includes a number of rights addressing specific protection needs and providing additional guarantees in the light of the particular vulnerability of migrant workers and members of their families. Furthermore, it assigns additional rights to migrant workers and members of their families who are documented or in a regular situation. These rights include the right to freely move in the territory of the State of employment and freely choose their residence there; the right to form associations and trade unions, and the right to participate in public affairs of their state of origin, including voting and election. The ICMW is a comprehensive international treaty focusing on the protection of migrant workers' rights. It emphasizes the link between migration and human rights.

3.4. The UN Declaration on Territorial Asylum

The right to political asylum is set forth in Art. 14 UDHR. However, asylum is typically seen as a state right; it is a state's prerogative of to decide whether to grant political asylum or not. As sovereign over its national borders, the state has exclusive jurisdiction of the policies and actions within that area. Consequently, a country has the power to grant or deny asylum to any person within its borders. This is pursuant to Art. 1 (1) and (3) *UN Declaration on Territorial Asylum[28]* (1967). This is where the status of an individual becomes contentious - if the person in question is suspected of a crime, mutual extradition treaties might compel states to hand him over to the authorities of the state demanding his custody. Otherwise, giving up the refugee could be seen as refoulement. Moreover, under Art. 31 of the Refugee Convention, an asylum

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[24] http://www.unhcr.org/3b66c2aa10.html. Delegates should especially refer to Chapter I, II,III,IV of the Convention.
[25] See Art. 34.
[26] http://www2.ohchr.org/english/bodies/cmw/cmw.htm.
[27] For further information on possible reservations a country might have had towards the declaration, delegates should refer to https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en
[28] http://www.refworld.org/docid/3b00f05a2c.html.

seeker who has *bona fide* reasons for illegally being present in a country (e.g. to escape threats to life and liberty) can be excused from any penalties that normally incur, subject to them swiftly declaring their presence to the relevant state authority.

3.5. Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they live

In Resolution A/RES/40/144 of 13 December 1985[29], to which the Declaration is annexed, the GA recognises that the protection of human rights and fundamental freedoms provided for in international instruments should also be ensured for individuals who are not nationals of the country in which they live. The Declaration defines individuals who are not nationals of the state in which they are present as "aliens" (Art. 1). It elaborates the human rights that aliens shall enjoy in accordance with domestic law and the relevant international instruments, such as the right to communicate at any time with the consulate or diplomatic mission of the country of which he or she is a national and the right to transfer money abroad, which is of specific interest when it comes to remittances to the alien's state of origin.[30] Art. 2, however, provides that the Declaration shall not be interpreted as legitimising illegal entry into and presence in a state.

3.6. The Convention on the Rights of the Child

Children may arrive with their parents/guardians or unaccompanied seeking refuge. The *Convention on the Rights of the Child* (1989)[31] is related to the international protection of refugees, as refugee children are covered by the Refugee Convention. Every aspect of a child's life is covered by the CRC, from health and education to social and political rights. It is intended to become an effective protection mechanism for the "best interest" of the child, as the Optional Protocol to the Convention will allow children and their representatives to bring complaints to the UN Committee on the Rights of Child, the treaty body responsible for monitoring the Convention's implementation[32]. Concluding, the CRC must be taken into account in order to enhance the protection mechanisms of the refugees.

3.7. CEDAW

The Convention on the Elimination of All Forms of Discrimination Against Women (1979)[33] deals with situations of displacement, asylum, return, (re-)integration or statelessness. Accessing and enjoying the rights listed in the Convention is considerably more difficult in situations of displacement, owing inter alia to exposure to a new culture and language barriers. Persons in displacement could become targets of racism and xenophobia. These factors create an environment of vulnerability for women as the possibilities for gender inequality and discrimination augment. The state parties of this Convention should implement both CEDAW and UN Security Council's Resolutions 1325[34] and 1820[35], aimed at promoting the rights of women and girls in the context of armed conflict, peace and security, as the obligations of states parties to CEDAW encompassed all women within their territory, without distinction, regardless their origin or legal status.

Two groups are identified as particularly vulnerable, for whom effective state protection is often lacking. Elderly women might have little or no knowledge as to how to claim their rights, especially if they were from rural areas. The second group is that of trafficked women, who might not be recognised as such by the recipient country. Often refugees are denied the right to work and thus turn to the informal sector, where they are particularly vulnerable to exploitation. At the same time, they share specific health concerns such as the lack of sanitary supplies, poor nutrition, and the lack of medical support.

UN Special Rapporteur on the human rights of migrants

The mandate of the Special Rapporteur on the human rights of migrants was created in 1999 by the United Nations Commission on Human Rights. The SR is requested to examine ways and means to overcome the obstacles for the full and effective protection of the human rights of migrants, including the difficulties for the return of migrants who are non-documented or in an irregular situation.

The SR requests and receives information from migrants and members of their families on violations of their human rights; conducts country visits at the invitation of the respective government, issues

[29]http://www.un.org/documents/ga/res/40/a40r144.htm.
[30]http://www1.umn.edu/humanrts/edumat/studyguides/noncitizens.html.
[31]http://www.ohchr.org/en/professionalinterest/pages/crc.aspx.
[32]The Protocol opened for signature in February 2012 and will enter into force upon ratification by 10 UN Member States.
[33]http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm.
[34]http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement.
[35]http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20S%20RES%201820.pdf.

recommendations to prevent and correct such violations; promotes the effective application of relevant international legal instruments; recommends policies applicable at the national, regional and international levels to eliminate human rights violations of migrants; and records and recommends measures to stop multiple discrimination and violence against migrant women. Every year the SR reports to the HRC about the global state of protection of migrants' human rights, his main concerns and the good practices he has observed. Some important issues treated by the Special Rapporteur in his recent reports[36] have been labour exploitation, management of the external borders of the EU and its impact on the human rights of migrants; detention of migrants in an irregular situation, irregular migration and criminalisation of migrants; protection of children in the migration process; the right to housing and the health of migrants.

Relevant Resolutions

General Assembly
- A/RES/68/179 of 18 December 2013 and A/RES/67/172 of 20 December 2012 on the protection of migrants
- A/RES/66/128 of 19 December 2011 on violence against women migrant workers
- A/RES/67/185 of 20 December 2012 on promoting efforts to eliminate violence against migrants, migrant workers and their families
- A/RES/68/143 of 18 December 2013 and A/RES/67/150 of 6 March 2013 on the assistance to refugees, returnees and displaced persons in Africa

Human Rights Council
- A/HRC/RES23/20 of 14 June 2013 on the human rights of migrants
- A/HRC/20/L.14 of 17 July 2012 on the human rights of internally displaced persons

4 Country Approaches

4.1. Europe

The number of immigrants in EU countries today amounts to about 40 million people[37]. Europe's population is clearly changing in composition and size. As it grows older and the functioning of social security systems is not guaranteed, most European governments place great importance on the continuous settlement of immigrants and refugees. Europe's migration, asylum and immigration policy has two aspects: While there is a clear demand for immigrants (esp. for temporary, unskilled labour in sectors as agriculture, hospitality, construction and domestic work) there is also a heated debate about controlling migration because of "failed" integration and risks for national and social security. The popular rhetoric of "failed" integration policies and the need to vigorously control migration reinforces anti-immigrant sentiments and the introduction of restrictive immigration policies.

Migration and immigration policies in Europe are dominated by two main developments. On the one hand, EU policies refer to migration management/security and border control practices in which immigration control is strictly linked to anti-terrorism measures such as the "establishment of an area of freedom, security and justice". On the other hand, the policies aim at the harmonisation of asylum policies in Europe, which results in a lowering of standards and a decrease in granting asylum. Consequently, increasing numbers of illegal migrants are excluded from a wide range of human rights. Harsh critics state that whilst Europe claims to be building a "common space" for freedom, justice and security with the Hague Program, it is creating an excluded underclass of second-class citizens from non-EU member states by building up a "fortress Europe". It is estimated that in 2011, over 1,500[38] persons lost their lives in attempting irregular border crossings in the Mediterranean Sea. Between 1998 and 2012, more than 16,000 persons have been documented to have died in attempting to migrate to the EU.

The number of migrants seeking to enter Europe illegally has surged in 2014, according to Frontex, the European Union's border agency. With more people attempting to make the crossing from North Africa to Europe in the summer months, that rise is expected to continue.

The number of migrants so far this year has already passed the total number who arrived during an equivalent period in 2011, when 140,000 people ultimately entered Europe illegally. Syrians, Afghans, and

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[36] Delegates are highly encouraged to look at the reports' recommendations on: http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/AnnualReports.aspx.
[37] http://www.migrationeducation.org/17.0.html.
[38] CoE Committee on Migration, Refugees and Displaced Persons, "Lives lost in the Mediterranean Sea: Who is responsible?", April 2012.

Eritreans top the list of those detected trying to enter. Syrians accounted for a quarter of all illegal migration into Europe last year and this year are expected to make up one third.

A (more or less) common migration and asylum policy has developed during the last one and a half decades among EU member states, as a result of dramatically changing migration movements and patterns in Europe. Three phases characterise the development since the founding of the European Community. During the 1st phase (1957-1990) the EC had no competences in the field of migration and asylum. Policy coordination only occurred in some fields of migration and asylum, such as transnational crime and terrorism. During the 2nd phase (1990-1999) intergovernmental cooperation started to take place. Given the high numbers of asylum seekers, some European states agreed on two important regulations: Namely the Schengen Agreement (1995) and the Dublin Agreement of the former European Community (1997). In the 3rd phase (since 1999) the main target was to establish a common asylum and migration policy in the EU. With the Treaty of Maastricht (1992), asylum policy was regarded as a policy task of common interest, to be regulated by the European Community.[39]

4.1.1. The ECHR

An effective mechanism whose progress is remarkable - it is also related to the international protection mandate of the Office of the United Nations High Commissioner for Refugees - is the Council of Europe's European Court of the Human Rights provisioned by the European Convention for the Protection of Human Rights and Fundamental Freedoms[40] (1950) and its additional Protocols. The relevance of the European Convention to the international protection of refugees emerged by the European Court's interpretation of Art. 3 as an effective means of protection against all forms of return to places where there is a risk that an individual would be subjected to "torture or to inhuman or degrading treatment or punishment". Moreover, it is listed in Art. 15 (2) of the European Convention as a non-derogable provision of the Convention, and it is considered as *jus cogens* in the international customary law. In order to invoke Art. 3 before the Court, it must be demonstrated that there are "substantial grounds" for believing that the individual faces a "real risk" of being subjected to treatment, which infringes Art.3 in the country to which the applicant is to be returned. To conclude, Art. 3 of the European Convention can be effective means of protection for those whose claim for refugee status has been "wrongly" rejected, cancelled or revoked or for those who, while not meeting the refugee definition of the Refugee Convention, are nevertheless in need of international protection.

4.1.2. Italy

The "Italian integration model"[41] rests on four fundamental principles: Firstly, interaction is based on security. The law provides for tools aimed at combating irregular immigration, carrying out expulsions, fighting criminality and human trafficking. Secondly, personal rights are extended to irregular migrants: the law provides for compulsory education granted to all children regardless of their residence title. In addition, it guarantees essential healthcare and introduces a residence permit issued for social protection purposes safeguarding the victims of trafficking. Thirdly, regular migrants' integration: the law grants them the same civil and social rights as Italian citizens, acknowledges the right to family reunifications and introduces the *carta di soggiorno*. This permanent right to stay in the country can be obtained by those who have resided in Italy for at least five years. Fourthly, it recognises pluralism and communication by respecting cultural differences through safeguarding language and culture of the country of origin; and it acknowledges the right to literacy. Finally, it provides for the involvement of voluntary organizations in carrying out integration policies. This integration model shows considerable openings to social rights, yet there is a substantial closure in terms of political rights. In addition, the anachronistic law on citizenship of 1992, based on the descent principle, emphasizes "familistic" and abscriptive characteristics. Due to the legislation in force and bureaucracy, the duration of citizenship proceedings is relatively long (except for the case of marriage).

In 2011, in the context of the evolving crisis in North Africa, and in particular the Libyan Arab Jamahiriya, Italy faced an unexpected flow of migrants. In March 2011, public health conditions in the receiving centre on the island of Lampedusa, which has a capacity of 800 beds, seriously deteriorated due to approx. 500 migrants arriving per day. Responding to these health challenges required the immediate improvement of several facilities, such as improving access to water and sanitation, rapidly increasing the storage capacity for drinking water and the number of sanitary facilities as well as implementing socio-psychological measures[42].Italy has had to deal with an ever-increasing influx of asylum seekers ever since, alone in 2013, the number of arrivals was near 43,000. Syria, Eritrea, Somalia, Nigeria, Gambia, Mali and Senegal are the

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[39]See Annex of A/HRC/23/46 on the EU's legal, institutional and policy framework to migration and border management.
[40]http://www.echr.coe.int/Documents/Convention_ENG.pdf.
[41]http://www.migrationeducation.org/fileadmin/uploads/CountryprofileItaly_aggiornamento.pdf.
[42]Delegates should refer to Chapter 10 "Conclusions and Recommendations" of the Report (link in Footnote 36) in order too learn about specific plans and suggestions.

leading countries of origin. Trying to reach the Italian shores in overcrowded, not seaworthy boats have already previously resulted in tragedies with hundreds of people drowning in the Mediterranean Sea. Last October, the world was shocked by the deaths of hundreds of people in shipwrecks off Italy's coasts and criticism emerged that the Italian authorities are not doing enough to prevent such tragedies. Both Italy and Greece had been accused of implementing a "push-back"-policy, i.e. a policy of sending those arriving back to their point of departure. However, due to tragedies at sea the Italian government set up a rescue operation- called *Mare Nostrum*- involving additional warships and aircrafts to monitor the sea and rescue refugees in need. So far more than 20,000 people were saved at sea.

According to the Italian government said more than 39,000 migrants had arrived on its shores already this year.

The Italian government has repeatedly urged the other EU members states to provide greater support and the European Commission has asked for more resources for joint sea patrols, and more co-ordination with countries that migrants embark from, such as Libya.

4.1.3. Greece

Over the last 15 years, the number of immigrants has quadrupled, making Greece[43] the country with the highest proportional increase in immigration in the EU over this time.[44]Most recent Eurostat numbers indicate that in 2006, 884,000 immigrants were present in the country.[45]Currently, the main countries of origin are Bulgaria, Ukraine, Romania, and Georgia, led by Albania, which makes up for 62%. The majority of immigrants come to Greece for work and are mainly employed in construction, domestic care, and manufacturing. Much of the immigration to Greece is irregular with some estimates as high as 400,000 persons present "illegally". The preparations for the Olympic Games in 2004 absorbed a large amount of irregular migrants, particularly in the construction sector. In response to large irregular migration flows, the Greek government responded with a series of expulsions, technical improvements to the country's borders, and a number of regularization programmes.

The number of irregular migrants and asylum seekers arriving in Greece by boat through the Aegean Sea has increased significantly since 2007. In 2006, at least nine people died and ten were missing at sea, but up until late September 2007, there had been 44 deaths and 54 missing in the Aegean Sea. The average number of people arrested, intercepted, or rescued by the Greek Coast Guard every year since 2002 has been around 3,000. But during 2007, almost 8,018 "boat people" were arrested.[46]In 2007, in spite of falling trends elsewhere in Europe, Greece has become one of the most important industrialised countries of destination for asylum seekers. The number of applications has been rising steadily since 2005 and has reached 14,600 between January and June 2007.[47]The majority of applicants come from Pakistan, Bangladesh, Iraq, Georgia, and Afghanistan; however, the recognition rates in Greece remain one of the lowest in Europe reaching only one per cent of positive decisions.[48]

Greece remains a country of destination for trafficked victims, mainly from the Russian Federation, Romania, Bulgaria, Ukraine, and Albania.[49]The majority of victims are female and are trafficked for sexual exploitation, but cases of Albanian children trafficked for begging and delinquency were observed in recent years, too.[50]

4.2. United States of America

The Immigration and Naturalization Act (INA), which governs current immigration policy, provides for an annual worldwide limit of 675,000 permanent immigrants, with certain exceptions for close family members. The Congress and the President determine a separate number for refugee admissions. Immigration to the U.S. is based upon the principles of family reunification, admitting immigrants with skills that are valuable to the U.S. economy, protecting refugees, and promoting diversity. The U.S. provides various ways for immigrants with valuable skills to come to the U.S. on either a permanent or a temporary basis. There are more than 20 types of visas for temporary non-immigrant workers. Many of these cater highly skilled workers, and immigrants with a temporary work visa are often sponsored by a specific employer for a specific job offer.

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[43]IOM (2008), Migration in Greece: A Country Profile 2008. Geneva: IOM.

[44]Pavlou, M., I. Avramopoulou, and L. Karakatsanis (2005) *Current Immigration Debates in Europe*: Greece, Migration Policy Group.

[45]Eurostat database, http://epp.eurostat.ec.europa.eu.

[46]UNHCR (2007) Briefing Notes, 5 October 2007, http://www.unhcr.org/news/NEWS/47060794d.html; UNHCR (2007) News Stories, 22 October 2007, http://www.unhcr.org/news/NEWS/471cbeb12.html.

47 UNHCR (2006) Asylum Levels and Trends in Industrialised Countries, Second Quarter of 2007.

[48]Kanellopoulos, C., and M. Gregou (2006) *Policy Report on Migration, Asylum And Return in Greece (Reference Period July 2004 - Dec 2005)*, European Migration Network, Athens.

49 Ministry of Public Order, Greece.

50 Terre des Hommes (2003) The Trafficking of Albanian Children in Greece, Tirana.

Refugees are admitted to the U.S. based upon an inability to return to their home countries because of a "well-founded fear of persecution" due to their race, membership in a social group, political opinion, religion, or national origin. Refugees apply for admission from outside of the United States, generally from a "transition country" outside their home country. The admission of refugees turns on numerous factors such as the degree of risk they face, membership in a group that is of special concern to the U.S. (designated yearly by the President and the Congress), and whether or not they have family members in the U.S.Persons already in the U.S. who were persecuted or fear persecution upon their return may apply for asylum within the U.S. or at a port of entry at the time they seek admission.

The Diversity Visa lottery was created by the Immigration Act of 1990 as a dedicated channel for immigrants from countries with low rates of immigration to the U.S. Each year 55,000 visas are allocated randomly to nationals from countries that have sent less than 50,000 immigrants to the U.S. in the previous five years.[51]

4.3. Australia

Under its Humanitarian Program, Australia accepts a certain number of people every year who are refugees or have special humanitarian needs.[52]T he Humanitarian Program has two main components: offshore resettlement and onshore protection. In both cases applicants have to satisfy the Refugee Convention's definition of 'refugee'

Refugees and other 'humanitarian entrants' who apply for a visa from outside Australia (offshore resettlement) can be granted one of two kinds of visas. Refugee Visas can be granted to people outside their home country who are in need of resettlement because they cannot return to their home country or stay where they are. Special Humanitarian Program Visas can be granted to people outside their home country who have experienced substantial discrimination amounting to a gross violation of their human rights in their home country. A proposer – who is an Australian citizen, Australian permanent resident, eligible New Zealand citizen or an organisation based in Australia – must support an application for this visa.

Some people can seek to be recognised as refugees when they are already in Australi a(onshore protection) by applying for a Protection Visa. Australia is obliged to protect a refugee if the applicant has a well-founded fear of persecution on at least one of the grounds covered by the Refugee Convention, the applicant has not committed war crimes or serious non-political crimes and the applicant does not have effective protection in another country (through citizenship or some other right to enter and remain safely in that country).A Protection Visa allows a refugee to live in Australia as a permanent resident. It gives people the same rights as other permanent residents, including being able to apply for citizenship.

Australia is the only country in the world to numerically link its system for granting asylum onshore and its scheme for resettling people from offshore under a single program. The effect of this link is that each time a person is granted refugee status within Australia, one place is subtracted from the offshore component. Other countries determine a particular number of refugees to be resettled each year, depending on global needs, and meet this commitment regardless of how many people seek asylum directly from the country.

5 Country & Bloc Positions

5.1. The Americas

Canada has adopted one of the most open immigration policies in the world in order to combat a shortage of skilled labour that has been stifling the country's economic growth since the 1970s. As of 2010, the foreign-born population made up 21.3 per cent of the country's total population. In 2013 the country launched a Start-Up Visa Program in an effort to attract highly skilled foreign entrepreneurs.

In the context of Latin America and the Caribbean, there is no unique regional policy approach: regional migrants face very different national environments regarding free labour movement and labour rights. The Caribbean is widely moving toward free internal movement, and countries within the Southern Cone are lessening restrictions for migrants from nations belonging to MERCOSUR, which started as a free-trade zone. The region, as a whole, however, does not resemble the more uniformly free movement of persons and labour that characterises EU. Rather, there are sub-regions in different stages of progress toward more regionalised labour markets, particularly in terms of protections for regional migrants and access to services.[53]

[51]http://www.immigrationpolicy.org/just-facts/how-united-states-immigration-system-works-fact-sheet.
[52]http://www.humanrights.gov.au/publications/face-facts-2012/2012-face-facts-chapter-3.
[53]http://www.migrationpolicy.org/article/other-side-fence-changing-dynamics-migration-americas.

Over the last four years, migration trends have undergone significant changes. Intraregional migration patterns have intensified, possibly as a response to the economic crisis affecting the principal countries of destination and the increasing constraints they have imposed on the entry and residence of foreign citizens. Furthermore, Latin America witnesses the increasing arrival of extra-regional migrants. These flows include streams from Africa, Asia, Europe, the U.S. and the Caribbean. Brazil appears as the main destination of extra-regional movements from Japan, Portugal, the United Kingdom and the U.S. Besides Asian and African flows, Argentina receives increasing volumes of Spanish, Italian and US nationals. In the past months, Uruguay has received important flows from Europe (particularly Spain and Germany) and the U.S. The countries of Central America's Northern Triangle (El Salvador, Guatemala, and Honduras) have seen a significant number of their citizens migrate to the U.S., while immigrants from the Caribbean represent half of all Black immigrants to the U.S. As such, the ties between these countries and their diasporas have taken on new importance, as has the integration of these immigrants in their country of settlement. The presence of South American women has grown in the international migration streams. At the same time, in destination countries the demand for skilled human resources seems to consolidate, attracting a significant movement of qualified migrants.

Compared with North America, Latin America has a relatively high level of labour migration. Within South America, labour migrants mainly originate from within the region, and tend to be engaged, to a large extent, in low-skilled employment and to a lesser extent are self-employed. Migrants are commonly employed in those sectors with the highest level of irregular and precarious employment. The new normative framework implemented by several South American countries, along with the instruments put in place at the regional level, appears to be an adequate way to neutralise the expansion of irregular migration through regularisation and obtainment of legal residence. Trafficking in human beings, esp. for labour exploitation, affects the countries of the region, as well as the Latin American nationals who are in other parts of the world. Last but not least, return migration to South American countries has increased in recent years, though not at the rates predicted by some due to the global financial crisis. Although migration fluxes to the EU are higher, the economic crisis pushes migrants to return home. This is one of the reasons that intra-regional fluxes have intensified, mostly to Southern Cone countries.[54] In 2004 government representatives of twenty Latin American countries gathered in Mexico to commemorate the 20th anniversary of the Cartagena Declaration on Refugees. One of the outcomes of the meeting was a renewed commitment to the principles of refugee protection and an agreement on specific steps and programmes to implement that commitment. The Mexico Plan of Action to Strengthen International Protection of Refugees in Latin America (MPA)[55] emphasises solidarity as a fundamental principle guiding state policies on refugee matters. More specifically, the MPA established as one of their action plans a regional solidarity resettlement programme as a response mechanism to the displacement of Colombian refugees, the largest refugee population in the Latin America.

5.3. Africa and the Middle East

Throughout its history, Africa has experienced important migratory movements, both voluntary and forced, which have contributed to its contemporary demographic landscape. Within Africa, migrants are not distributed evenly among the various regions. International, regional and out-of-Africa migration is occurring on a scale larger than in any other region. Sub-Saharan Africa has also generated significant outflows of intercontinental migration, mainly to Western Europe, but also to North America and the Arab region. Intercontinental migration has diversified, however, and increasingly includes unskilled labour migrants who emigrate in significant numbers to Europe, North America and the Middle East.[56] In many parts of the continent, communities are found spread across two or three nation-States, as movement is often not limited by political boundaries. Cross- border migration in Africa also represents an important livelihood and coping strategy to ecological and economic downturns and is key to understanding as well as forecasting the onset and evolution of humanitarian disasters. Over the last decades, deteriorating political, socio-economic and environmental conditions, as well as, armed conflicts, insecurity, environmental degradation and poverty, are significant root causes of mass migration and forced displacement in Africa. The globalisation process itself will also facilitate the movement of people across the various regions in Africa (through regional integration), and to other regions outside the continent. As the number of migrants continues to increase, migration will undoubtedly pose certain social, economic and political challenges for policy makers in the future migration management for the betterment of African societies.

In light of the challenges and impacts posed by migration, the OAU Council of Ministers adopted a Strategic Framework for a Policy on Migration in Africa[57] for consideration by the African Heads of States. This Framework document identifies 9 key thematic issues and gives policy recommendations. It provides a

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[54]https://www.iom.int/cms/en/sites/iom/home/where-we-work/americas/south-america.html.
[55]http://www.oas.org/dil/mexico_declaration_plan_of_action_16nov2004.pdf.
[56]http://www.iom.int/cms/en/sites/iom/home/where-we-work/africa-and-the-middle-east.html.
[57]Decision CM∕Dec. 614 (LXXIV), 2001.

comprehensive and integrated policy guideline on areas such as labour, irregular and internal migration, border management, forced displacement, human rights of migrants, migration data, migration and development, inter-state co-operation and partnerships. The African Common Position on Migration and Development[58] aims at developing a comprehensive and balanced approach to migration in light of the increase in migratory flows and provides recommendations for action at national, continental and international levels.

Within the Middle East the massive displacement of people from and inside the Syrian Arab Republic (Syria) as a consequence of the unrelenting conflict in that country has dominated, threatening the social, political and economic balance of the neighbouring countries hosting Syrian refugees. At a time of significant political and social upheaval across the sub-region, security concerns are likely to weigh ever more heavily on asylum policies and practices. Meanwhile, mixed migration flows and human smuggling will continue to be a hot topic within the Middle Eastern countries' approaches towards immigration, asylum seekers and refugees.[59]

5.4. Asia and the Pacific

Hosting more than half of the world's population, the number of international migrants in the region remains just under 25% of the total global figure. The Asia and Pacific region comprises not only major countries of origin, but also traditional and emerging destinations. Countries like India and China have become simultaneously countries of origin, transit and destination. Widening North–South economic disparity, coupled with demographic challenges, continues to promote intraregional migration. It is estimated that 43 per cent of Asian migrants move within the region. Increasing labour migration activity brings positive impacts on consumption and economic growth. In the Philippines, the region's largest labour-sending country, remittances accounted for approx. 10 per cent of GDP in 2012. Notably, despite the global economic slowdown, remittance flows to South and East Asia have remained relatively robust. In 2012 alone, three of the top four remittance-receiving countries were in Asia. Besides labour migration, increasing mobility of students and retirees, as well as international marriages are notable trends in the region.

A significant share of the migratory flows in the region is irregular. Asia hosts the largest undocumented flows of migrants in the world, mainly between neighbouring countries. Some of these movements are supported by smugglers, who may or may not be connected to transnational organized crime. Increased security concerns associated with the negative perception of migration has led many countries to take a stronger stand against irregular movements. With a growing number of migrants in administrative detention and returned to their countries, the costs of managing migration are increasing. This also poses new challenges from a human rights perspective. States are working together to develop bilateral solutions or find new responses at the regional level.

At the same time, the region continues to host the largest number of refugees and displaced people in the world, with Pakistan and the Islamic Republic of Iran alone hosting some 2.6 million Afghan refugees. Although few countries in the region have ratified the Refugee Convention, programmes resettling refugees to the U.S., Australia and European countries continue with a view to offering a durable solution. In East and South-East Asia, the potential emergence of a more integrated, interdependent regional market among countries in the ASEAN is encouraging the establishment of the ASEAN Economic Community (AEC) by 2015. Throughout the sub-region, governments have been working to more effectively regulate the movement of professionals and migrant workers, while also ensuring better protection of low-skilled labourers. Oceania hosts more than 6 million international migrants. It remains a sub-region of immigration with more people entering than leaving. This positive migration balance is largely due to the fact that Australia and New Zealand have remained attractive destination economies. Emigration outside Oceania is mainly directed towards the U.S. and the U.K.

Natural disasters and conflict in certain areas also pose on-going threats to populations in the region and have resulted in the displacement of a huge number of people, leaving many in a highly vulnerable situation. Governments are increasingly supportive of DRR and disaster management initiatives throughout the region.[60]

[58]Decision EX.CL/Dec. 264 (IX), 2006.
[59]http://www.unhcr.org/pages/49e45ade6.html.
[60]https://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific.html.

6. Key points

- Do the current legal standards that were designed to protect the refugees and migrants suffice? Are those legal frameworks implemented efficiently in all parts of the world?
- How can the HRC guarantee that current international laws, which should protect refugees and migrants, are adequately implemented?
- Should the non-refoulement provision be revised and redefined (e.g. extended, limited, special rules for situation of mass influx, specific rules for temporary protection)?
- Should there be global or regional quotas as guidelines for the distribution of refugees and asylum seekers? Can the HRC conceive a suitable recommendation for such a plan?
- What responsibilities should more economically developed countries have in dealing with the situation of economic migrants?
- How can the HRC react more adequately to human rights violations of migrants and refugees?

7.Further Readings

Delegates are highly encouraged to engage in profound substantial research on the overall topic as well as on their respective country position.

http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx.
http://www.un.org/News/dh/infocus/hr_council/hr_q_and_a.htm.
http://www.ohchr.org/Documents/Publications/FactSheet20en.pdf.
http://www.ohchr.org/en/Issues/Migration/Pages/MigrationAndHumanRightsIndex.aspx

http://www.refugee.org.nz/Reference/JessicaR.htm#1%20%20%20The%20European.

http://www.bbc.co.uk/news/world-europe-24583286
https://www.refugeecouncil.org.au/docs/news&events/rw/2010/4%20-%20Myths%20and%20facts%20about%20refugees%20and%20asylum%20seekers%202010.pdf
http://esa.un.org/unmigration/wallchart2013.htm
http://www.unhcr.org/527cc7b66.html
http://capacity4dev.ec.europa.eu/public-migration-asylum/blog/regional-and-international-migration-key-facts-and-figures-2
http://sa.au.int/en/sites/default/files/african_common_position_migration%20and%20development.pdf
http://www.migrationpolicy.org/programs/data-hub/humanitarian-protection-statistics
http://www.mipex.eu/key-findings

8. Conference information

All preparation materials and the Rules of Procedure are available on the homepage[61] ("Committees-Topic-Team" section). Each participant has to prepare individually for the country they are representing (libraries, internet, embassies, media) and send in a one page Position Paper to the Chairs prior to the conference, since the Study Guide is only a general outline.

8.1. Position papers

A Position Paper[62] is a brief outline of a country's policy and interests concerning the topic at hand. It should contain a clear statement of the country's position on the topic and the reason behind it, and it should suggest a plan of action concerning the problem under consideration. The Position Paper should be a product of the delegate's own research and should be written concise and up to the point. Ideally, a Position Paper is 1 to 2 pages (A4). The font type should be Arial, with a font size of 11 pt., single line spacing.

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[61]http://afa.at/vimun/vimuncommittees2014.htm.
[62]http://afa.at/vimun/positionpapers.pdf.

Note that the below mentioned structure is only one way of writing Position Papers and is meant to guide the delegate's of VIMUN in their writing process. At the beginning of your Position Paper you should state the following: Committee, Country, Issue.

In the first part of your Position Paper you should briefly specify the issue of your Committee:

- Why is this issue relevant? What is the scope of the problem? You can name statistics, the major players or the current developments concerning the issue under discussion.
- You can also mention the UN action that has been taken in this respect already. Which resolutions have been passed so far? Which conferences have been held? What is planned for the future?

In the second and most important part you should specify the official position of the country/organisation you represent in respect to the issue under consideration:

- What is your country's/organisation's policy on the topic? Why? What issues in this area are particularly relevant to the country / organisation you represent? What action has your country / organisation taken already?
- What are the possible solutions to the problems in this area? What is the type of resolution your country / organisation tries to accomplish?

Remember that you have to represent the position of your country/organisation in the Committee. Therefore you should not speak in the first person ("I"), but with the voice of the country you represent (for example: "Algeria suggests...", "Germany proposes...."). You may offer your own ideas for a solution of the problem, but always make sure that these ideas do not contradict the policies of the country you represent.

The deadline for the position papers will be 23 July!

8.2. Contact details

All Chairs can be contacted via the following e-mail address: hrc.vimun@afa.at