

Research Report

Human Rights Council

Establishing measures to support the rights of
undocumented migrants

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Forum	Human Rights Council
Issue:	Establishing measures to support the rights of undocumented migrants
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Introduction

Every year, thousands of people illegally immigrate from their own country to another, usually wealthier, country. Sometimes they have to leave their families behind and often take perilous journeys with high risk factors.

Approximately 800.000 people, 80% of them women, are illegally and involuntarily trafficked annually across national borders. This does not include the millions who are trafficked within their country of residence.

All these people need help, help that has not yet been provided for them. It is the task of the United Nations to take measures in order to provide the basic human rights that these unauthorized migrants deserve.

Definition of Key Terms

Undocumented migrants

The term ‘undocumented migrant’ refers to foreign nationals residing in a country without legal immigration status. Undocumented migrants are also known as unauthorized or illegal immigrants. Illegal immigration comes in several different forms, which can be subdivided into four types:

1. Unauthorized/undocumented entrants – This concerns the largest group of people. These are nationals of one country who enter another country clandestinely. Most migrants travel across land borders, but sea routes are also used regularly, and sometimes, even air routes are employed. In all cases, the concerning migrant manages to avoid detection and hence, inspection.

2. Migrants who are inspected while entering another country and do not get admission to enter by using fraudulent documents - the specific fraud may involve the person's identity and the documentation in the support of admission to the country.
3. Violators of the duration of a visa – people who overstay their permitted period of legal stay
4. Violators of the terms and conditions of a visa. The most common violation of the visa is the acceptance of employment.

Refugee

A refugee is a person who was forced to leave their home country because they feared or suffered persecution due to their opinions, race, religion, nationality or sexual interests. A refugee is not voluntarily moving. A migrant has, however, made the choice voluntarily.

Sham marriages

This is a “fake” marriage, also known as a marriage of convenience. This type of marriage is only arranged for the purpose of eventually gaining some kind of benefit arising from the status of being married. In most cases, sham marriages are to gain residency, immigration or work. They are usually in exchange for money.

Visas

A certificate provided by immigration authorities of a country to confirm that the applicant has granted permission to enter the country for a period of time. There are several types of visas, each pertaining to different types of visits.

Human Smuggling

Human smuggling is the practice of aiding immigrants in crossing borders in exchange for money. The significant difference between human smuggling and human trafficking should be noted. The humans that are being transported by human trafficking are not voluntarily traveling. Most of them (approx. 80%) are female and most of these victims are trafficked into sexual exploitation.

General Overview

Location

To tackle this issue, we should start with discovering where most migration is actually taking place. Since there are two main reasons to migrate, there are also two main locations where illegal immigration takes place:

War-zones

The motivation for a refugee to leave its country is that there is a national or international war taking place in its country. These refugees flee to nearest countries for their own safety. This is one way that a war can affect other countries. If you look at conflicts taking place in countries such as Syria or South Sudan, you can see that in a very short period of time, hundreds of thousands of people are leaving their country. In this short period of time, the neighboring countries should provide shelter, water, food and healthcare for the refugees. This is however an almost impossible task since the concerning neighboring countries are usually already suffering from this war in various different ways, also economically. This makes it very difficult to provide so much food, water and healthcare to so many people.

North America and Europe

These continents are known as one of the most economically developed worldwide. They have in common that they are both neighboring continents that are known to have less stable economies, such as Africa and South-America. If migrants would leave their country of residence in order to get a better future in a wealthier country, they would try to migrate to these two continents. Most illegal immigrants that are trying to enter North America would do so by crossing the Mexican border. If a migrant tries to enter Europe from the northern part of Africa, crossing the Mediterranean Sea by boat or using air-travel are the most common options.

Motivation

Unauthorized migration can have a lot of different causes that all have to be dealt with in different ways.

Wealth

One of the most common motivations for migrations is wealth. Almost all migrations are from a poorer country to a richer country. Studies, however, show that the poorest

inhabitants of a population are usually not the ones that will consider migration. This is usually because they do not own enough money to finance their migration.

Safety

Another common motivation for migration is safety. In conflicted areas, the surrounded areas are usually overwhelmed with a flow of refugees. Push factors for this type of migration include possible prosecution based on religious or sexual beliefs, abuse, oppression, and even genocide. Political motives can also motivate the refugee flow, for instance, to escape dictatorship or tyranny. This year, the UNHCR announced that for the first time since the Second World War there are more than 50 million people on the run.

Poor living conditions

The home country of the migrants could also be struggling with famine or poverty. This is also a motivation for migration. Studies even show that increases in poverty can increase the likelihood of unauthorized migration. There are also examples where natural disasters can increase illegal immigration. In 2050, it is estimated that the world population will have exceeded 9.4 billion. This increase could result in extreme overpopulation, which can lead to more immigration.

Family reunification

A smaller part of the migration comes from the natural urges to be united with family members. One historical example is East Berlin and West Berlin, where there have been numerous attempts to illegally immigrate from one of the parts of the city to the other in order to be with family members living in that other part of Berlin. A more topical example is North and South Korea where there have also been a lot of attempts to migrate from North to South Korea to be with family members.

Methods

There are three main ways to illegally enter a country.

Border crossing

The most common way to illegally immigrate into another country is to illegally cross borders. Immigrants living in countries that do not have automatic visa agreements, or that just would not qualify for a visa often use this method. A notorious example is the border between the United States of America and Mexico or the Mediterranean Sea

between Europe and Africa. This is not relatively inexpensive but can be very dangerous.

The misuse of visas

The first way to misuse a visa is to overstay the period of time that the visa provides. Many unauthorized immigrants were once authorized when they entered the country. They were allowed to reside in the concerning country for a limited amount of time but decided to stay in the country for a longer period of time. This is illegal and can result in a penalty of a fine, a prison sentence or an exile.

Another way to misuse a visa is to violate the terms of conditions. This usually goes hand in hand with the first way to misuse a visa. The most common way to violate these terms is to accept illegal employment.

Sham marriages

This method of entering a country is the safest but usually also the most expensive one. This type of marriage is illegal in almost every country. The United States even has a penalty of a five-year prison sentence and a \$250,000 fine. But these types of marriages are hard to detect and to prove.

Related issues

Illegal immigration causes a lot of problems that are extremely hard to tackle.

Slavery

After the end of the legal slave trade by European countries, the illegal importation of slaves started. There have been numerous examples of people that were kidnapped or tricked into slavery to work in, for instance, factories. These trafficked people are illegally staying in the country, which makes it extremely hard for them to gain access to help. There are also a lot of cases where people were promised to get good employment in another country. When they arrive in the country, however, they are forced to work in poor conditions, without the job and the money that they were promised.

Prostitution

Another form of slavery is prostitution. 75% of the victims of human trafficking are forced into sexual slavery. For example, Western Europe is facing a big problem

concerning the sexual exploitation of unauthorized immigrants since the fall of the Iron Curtain. The Iron Curtain was a border between Europe and the so-called Eastern Bloc. This border was established right after the Second World War and no one was able to cross it until 1989. In the forty years that these two areas were separated, the economy of the Western part has developed more than the Eastern part.

Risk Factor

Most of the methods used by undocumented migrants are extremely dangerous. There have been several cases where would-be immigrants have suffocated in shipping containers or trucks, sank because unseaworthy vessels were used or dehydrated because of long journeys. If the borders would be more heavily guarded, the flow of immigrants would decrease but the deaths caused by attempts to cross the border would increase. Immigrants would be forced to use more dangerous methods and increase the risks they are taking.

Major Parties Involved and Their Views

Migration Policy Institute (MPI)

The Migration Policy Institute is a non-profit organization specialized in the analysis of the movement of people worldwide. MPI is dedicated to provide evaluations, analysis and developments concerning migration and refugee policies at all levels. This organization does not take any action or measures but it does provide a lot of relevant information.

United Nations High Commissioner for Refugees (UNHCR)

The UNHCR was established on December 14, 1950 by the United Nations General Assembly. The agency was created to co-ordinate international action to protect refugees and solve refugee problems. Its main goal is to safeguard the well-being and the basic rights of every refugee. It also has a mandate to help stateless people. Today, the UNHCR continues to help approximately 33.9 million persons.

NGO Committee on Migration

The NGO Committee on Migration was established by the United Nations General Assembly and contains 50 different NGO's. This is a committee that stimulates dialogue and

collaboration between Migration-related NGO's worldwide by organizing several conferences per year. In this way, NGO's can work more effectively and can be more successful.

Human Rights Watch (HRW)

HRW defends the rights of people worldwide. This NGO does not exclusively look at refugees but the HRW is also committed to defending their rights. The Human Rights Watch investigates abuses and pressures governments or NGO's with power to respect the rights and secure justice at all times.

Countries neighboring areas that are in conflict

As stated in the general overview, the neighboring countries of a country or countries in conflict are also greatly suffering from this conflict. One of the consequences of this conflict for these neighboring countries is the extremely high number of refugees. For instance, the number of refugees that have fled Syria is almost three million today. Neighboring countries should provide all these refugees with their basic human needs, but they are usually unable to do so because of economical problems; the large amount of aid has to be supplied on a short notice. According to the UNHCR, the three countries that are receiving the most refugees are Pakistan, Iran and Libanon. More than half of the refugees worldwide are Afghans, Syrians and Somalis.

Timeline of Events

Date	Description of event
December 14 th , 1950	United Nations High Commissioner for Refugees established
1988	Human Rights Watch established
March 3 rd , 2005	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families signed
March 9 th , 2012	Violence against women migrant workers signed
March 29 th , 2012	Protection of Migrants signed
March 26 th , 2013	International Migration and Development signed
January 21 st , 2014	Declaration of the High-level Dialogue on International Migration and Development signed



UN involvement, Relevant Resolutions, Treaties and Events

- Declaration of the High-level Dialogue on International Migration and Development, 21 January 2014 **(A/RES/68/4)**
- International Migration and Development, 26 March 2013 **(A/RES/67/219)**
- Protection of Migrants, 29 March 2012 **(A/RES/66/172)**
- Violence against women migrant workers, 9 March 2012 **(A/RES/66/128)**
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 3 March 2005 **(A/RES/59/262)**

Evaluation of Previous Attempts to Resolve the Issue

All the resolutions and NGO's that have been established have resulted in positive change. NGO's came up with efficient ways to set up and improve refugee camps. The written resolutions also did result in positive change regarding the living standards of refugees. For instance, the UNHCR has been one of the greatest contributors in the handling of this issue. They announced that there are an estimated 16,7 million refugees, of which 11,7 are currently being helped by UNHCR. Shelter, food and healthcare are also provided by numerous governments and NGO's, such as WFP and UNICEF.

Despite efforts from the many organisations and governments listed above, the issue of the rights of undocumented migrants is far from being resolved. Although refugees are given a lot of attention, as demonstrated above, the undocumented migrants that do not fall into this category are often not included in efforts. It is worthwhile to note that the migrants that do not fall into the 'refugee' category have usually been refugees at some point. This means that although immediate action is being taken, sustainable solutions for the majority of undocumented migrants, refugees, are yet to be implemented.

The situation is also unresolved due to the ever-increasing number of undocumented migrants. These can be mostly traced back to conflicts in Afghanistan, Somalia, and most recently, Syria. Although the rights and measures that can be taken in the case of undocumented migrants are not 100% effective and should definitely be improved, ultimately, the conflicts with undocumented migrants can only be completely resolved once the countries from which they come are at peace. Of course this is not something that can be

tackled in a single resolution, and it is also not the issue being directly debated, but it is good to keep in mind where the central conflicts and hence, solutions, lie.

Possible Solutions

Motivation

The perfect resolution should make sure that these immigrants do not feel the need to migrate in the first place. If they would not live in poverty or in danger, they would not undertake such a dangerous journey. Completely eliminating poverty and creating worldwide peace is unfortunately not realistic, but improving their living conditions would reduce migration.

Methods

Illegal migration can be stopped if land and sea borders are heavily guarded. This would of course cost a large sum of money and could possibly have a lot of negative effects. Immigrants could choose different and more risky ways of trying to enter a country if the easy methods would be made impossible. Delegates should take note of these problems when discussing this issue.

Since undocumented migrants are illegal, it is extremely hard to monitor and report. This does not imply that it's not important and needed. Delegates writing a resolution should be aware that they should include institutions that will monitor and report, since this information is of mass importance for other operating NGO's and GO's.

Once a refugee has fled his country and crossed the border to another country, he can legally not stay there until he has an official visa. If he is not in possession of such a visa, he has to leave the country and move back to his home country. This could, however, be a threat to their safety. Most refugees are not in the position to afford advocacy in order to obtain a visa, even though having diplomatic representation could save their lives. Therefore, a good resolution should make sure that advocacy is provided for all refugees that might need it.

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Appendices

- I. http://en.wikipedia.org/wiki/United_Nations_Convention_on_the_Protection_of_the_Rights_of_All_Migrant_Workers_and_Members_of_Their_Families

This is a webpage on the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- II. <http://www.un.org/esa/population/migration/ga/index.html>

The UN has written several resolutions and reports on the status of migrants. Many of them contain useful information.

- III. <http://picum.org/en>

PICUM is an NGO that strives towards improving the implementation of human rights for undocumented migrants in Europe. This NGO also tries to improve dialogue between

other organisations and communities with the same interests, located in Europe and other areas of the world.