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Office of the High  
Commissioner for  
Human Rights

Topic B: Preventing the  
Violation of Human Rights in  
Migrant Detention Centers

# Office of the High Commissioner for Human Rights



Topic B: Preventing the Violation of Human Rights  
in Migrant Detention Centers

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## **Introduction to the Committee**

The Office of the High Commissioner for Human Rights (OHCHR) is the leading United Nations entity on Human Rights. This department was created with the main objective of promoting and representing all existing Human Rights that are guaranteed under international law and stipulated in the Universal Declaration of Human Rights of 1948 (OHCHR & Inter-Parliamentary Union, 2016). The department has four fundamental tasks: promote and protect all Human Rights, help empower people, assist the governments, and inject a Human Rights perspective into all United Nations programs. This office was established by the United Nations General Assembly on December 20, 1993 during the World Conference of Human Rights celebrated the same year which adopted the Vienna Declaration and Plan of Action. It was approved by 171 states, renewing the world's commitment to Human Rights.

This committee is currently composed of 18 independent experts characterized and selected because of their high morality and recognized competence in the field of Human Rights. Likewise, committee members are elected every four years and can be re-elected if nominated. The current High Commissioner is the Chilean Michelle Bachelet, who succeeded Zeid Ra'ad Al Hussein of Jordan (OHCHR, 2021).

## **Introduction to the Topic**

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The current scale of migrant detention policies used by countries to maintain control over their borders and to be able to manage the flow of migration is unprecedented. Either as a management practice or as a consequence of crimes derived from migration, the detention of migrants is a large-scale phenomenon against Human Rights that affects many people in vulnerable situations (The Equal Rights Review, 2011).

Before delving into the topic, it is important to know the definition of migrants and the several types that exist. In a general way and not defined in international law, it is understood that a migrant is a person who moves away from their place of habitual residence, either within the same country or crossing its border. This transfer can be temporary or permanent and can occur for a myriad of reasons. The word encompasses different categories specifically established by law, such as migrant workers, as they are people whose transfers are defined by the different jurisdictional tools (IOM, 2021). Consequently, a migrant worker is any person who moves to the interior or exterior of their country in search of work. Migrant workers are typically characterized by not having the intention of permanently staying in the country or region in which they are working. These people working abroad are normally known as foreign workers, expatriates, or guest workers, specifically when they have been called to work in the host area before leaving their country of origin.

Undocumented workers, as well, face many barriers. If an undocumented worker makes a complaint to the labor authorities, it is not strictly necessary for the police or immigration authorities to be involved. However, in various European Union member States, undocumented workers are not allowed to press charges due to the lack of a clear separation between labor inspection and immigration control. The police frequently accompany labor inspectors

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during inspections. Generally, the police must verify the residence permits of people who work, and labor inspectors must often notify immigration authorities of all persons found without residency status. These practices weaken the complaint system and lead to exploitation by preventing undocumented workers from reporting violations and claiming their rights (PICUM, 2021).

At the same time, large numbers of people known as political migrants are forced to relocate as a result of armed conflicts, civil armed conflicts, or state policies that discriminate against particular categories of its citizens or political opponents of those in power. These people do not have the opportunity to return to their place of origin since they have well-justified fears of being persecuted or trapped, and it is very likely that they will not receive protection from their government.

Environmental change and disasters have always been major drivers of migration. However, climate change predictions for the 21st century indicate that even more people are expected to be on the move as extreme weather-related events, such as floods, droughts and storms become more frequent and intense, and changes in precipitation and temperature patterns impact livelihoods and human security. The 2018 Global Compact for Safe, Orderly and Regular Migration (GCM), the first-ever negotiated global framework on migration, recognizes that migration in the context of disasters, climate change, and environmental degradation is a reality, and makes commitments to support both migrants and States (International Organization for Migration [IOM], 2021).

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On the other hand, according to the Migration Policy Institute, the word “immigrant” is commonly known as anyone residing in any country other than that of their birth. Migrants are people who move to another place temporarily, while immigrants are people who move to look for a new permanent residence. On one hand, as already mentioned, migration can occur within the borders of the same country or across international borders, while immigration occurs when a person crosses an international border and becomes a permanent resident in another country (Preemptive Love, 2019).

Considering the information mentioned above, migrants face many challenges in the country where they’re residing. According to statistics reported by the UN, it is estimated that 281 million people, who make up 3.6% of the world’s population, nowadays reside outside their country of birth, many of whose migrations are characterized by varying degrees of compulsion. The number of people who migrate increases more and more as shelter-seekers have to leave their homes in search of better opportunities. A very common consequence of said relocations are the numerous violations of Human Rights against migrants, ranging from the denial of civil and political rights through arbitrary detention, torture, or lack of due process, to economic, social, and cultural rights, such as the rights to health, housing or education. The denial of the rights of migrants is a discriminatory and ingrained action of prejudice or xenophobia (OHCHR, 2021).

On the other hand, it is important to mention refugees and their role in this worldwide issue. Refugees are people escaping armed conflicts or persecution. There were 21.3 million of them worldwide at the end of 2015, whose situation is unsafe because of all the risks they face during their movement. These people choose to cross national borders in search of security in nearby countries, recognizing themselves internationally as

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“refugees”, seeking access to the support of the States, United Nations High Commissioner for Refugees (UNHCR), and other organizations. They are globally recognized precisely because it is too dangerous for them to return to their country of origin and therefore need refuge in another nation. These are people for whom denial of asylum has consequences of deadly magnitude (UNHCR, 2021).

As mentioned, migrants and refugees around the world suffer greatly when it comes to the fulfillment of their Human Rights. There are very common cases of violations against them taken by the government trying to remove people who come to their countries as migrants seeking asylum. In response, what international organizations seek is that regardless of the motive for their movement, all migrants be treated with dignity and with respect for their basic human rights (Human Rights Watch [HRW], 2021).

Deportation is known as the expulsion of a person or group of people from a place or country. It is important to know that the word expulsion is commonly used synonymously with said term, although expulsion is used more frequently in the context of international law, while the word deportation has greater use in national and municipal law. Forced movement or forced migration of a person or group of individuals can be caused by deportation. An example could be ethnic cleansing and other reasons.

Many of these deportations threaten a range of fundamental human rights including the right to family unity, the right to seek asylum from persecution, the right to humane treatment in detention, the right to due process, and the rights of children (HRW, 2021).

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Therefore, under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment, and other irreparable harm. This principle applies to all migrants at all times, regardless of migration status. This way, States have a legal obligation under international human rights law to uphold the principle of non-refoulement, ensuring that a range of practical and human rights-based protection mechanisms are in place (OHCHR, 2021).

Borders around the world are a dangerous place for migrants, especially for people who are non-regular in status. Large numbers of migrants are murdered in boarding ships that do not have the ability to navigate, smugglers let migrants die in the ocean, or many times border officials immediately fire in a quest to control the borders. All orders, regardless of whether they are air, land, or sea, often present acts of discrimination, arbitrary decision-making, creation of non-legal profiles, and against privacy, torture, sexual violence, and gender violence. National laws and administrative regulations can also highlight borders as regions of exclusion or exemption from obligations related to Human Rights (OHCHR, 2021). Since 2014, more than 4,000 people have died each year on migration routes around the world. The number of registered deaths merely represents a minimum estimate, though, due to a large part of the deaths around the world going unregistered. Since 1996, more than 75,000 migrant deaths have been recorded worldwide. These statistics not only highlight the problem of migrant fatalities and the consequences for families left behind, but can also be used to assess the great risks and problems of irregular migration and to design policies and programs to make migration safer.

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Although migrants have the same Human Rights protections as all other people, countries may place limits on the rights of migrants in some way, such as barring them from voting or participating in the political context. There are many Human Rights treaties that explicitly prohibit acts such as discrimination based on nationality and require that the Human Rights of migrants be protected. Likewise, similarly to other vulnerable groups, migrants have received specific protection under international law to be able to deal with situations in which human rights are more compromised, such as in the workplace, during detention, or in transit. The support granted to migrants, such as access to social security, also depends on the treaties ratified by the countries (International Justice Resource Center [IJRC], 2021).

One of the nations that receive the largest number of migrants worldwide is the United States. As a consequence, migration has brought population growth, cultural transformation, and development to the country. The United States, having numerous migrations throughout its history, allows inhabitants to investigate their ancestry. The country had approximately 47 million immigrants in 2015, numbers that have greatly increased over the years and that at that time represented 19% of the more than 250 million migrants internationally and 14% of the US population.

In this area, countries such as Switzerland and Canada have a higher percentage of migrants than their entire population, 25%, and 22% respectively.

Mexico is the top origin country of the US immigrant population. In 2018, roughly 11.2 million immigrants living in the US were from there, accounting for 25% of all US immigrants. The next largest origin groups were those from China (6%), India (6%), the Philippines (4%), and El

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Salvador (3%). By region of birth, immigrants from Asia combined accounted for 28% of all immigrants, close to the share of immigrants from Mexico (25%). Other regions make up smaller shares: Europe, Canada and other North America (13%); the Caribbean (10%); Central America (8%); South America (7%); the Middle East, and North Africa (4%); and sub-Saharan Africa (5%) (Budiman, 2020).

## Historical Background

The conversation about migration has always been of great relevance within the international community. Migration started millions of years ago as it gave way to the people of the world, but in modern history, this phenomenon ceased to be just a natural quest for better livelihood and mutated into a forced displacement spurred by factors that have a major impact on humanity's living conditions. The social, cultural, political, and demographic transformations it generates are of great concern at a global scale, as they represent challenges for the management and recognition of Human Rights. As it will be more deeply addressed later on, migration had its peak after the Second World War; the armed confrontations and new areal divisions settled after this conflict being the main factors that galvanized the displacement of millions of people throughout the globe and still have a significant effect on today's migration. That's why it is pertinent to recapitulate historical events related to this worldwide issue that has been affecting millions of lives.

**The Declaration of Human Rights.** This document was proclaimed on December 10, 1948, by the United Nations General Assembly through its resolution 217 A (III). This international instrument began with the purpose of enhancing and promoting the respect and recognition of individual and collective interests, which means heralding the encouragement of dignified coexistence

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among the human family and consequently upholding its protection, functions as the foundation of justice, peace, and freedom in the world. The deed reaffirms and recognizes the freedoms and rights of all people and nations, which shall have their limitations regulated merely by the law. This, with the goal to endorse and preserve sovereignty at a universal scale and meeting the requirements of human inherent dignity and due equal treatment (UN, n.d.).

In accordance with the objectives of the Declaration, the Member States have devoted efforts to achieve, in conjunction with the United Nations, the advocacy of universal respect for and compliance of Human Rights and fundamental freedoms. The Declaration would afterwards serve as the point of departure for the International Covenant on Civil and Political Rights and its first Optional Protocol, embraced by the General Assembly in 1966.

As relevant sections of the Declaration, articles 9, 13, and 15 serve as crucial protector devices for people under different circumstances, of which several are sharply related to migration and the various scenarios this phenomenon creates. According to the aforementioned, article number nine decrees the strict forbiddance of non-justified exiles, arrests, or detentions inflicted towards any individual. Thus, the lack of a just trial or a law-supported justification as to why the supposed incarceration or apprehension is being held would lead to the violation of the article. Said infractions are directly found in migratory situations, where arbitrary detentions of asylum-seekers have taken place, primarily with the purpose of ceasing further migration attempts by imposing forceful measures.

Also attending the migratory phenomenon, article thirteen establishes the liberty of movement within and between states and/or nations as an innate right, without excluding the freedom of residence in neither of the established

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territorial divisions. Analogously, contemplating the various possible causes that could provoke these displacements, article fourteen enables asylum-seekers to obtain the necessary shelter that a prosecution could require, from foreign nations; the article, however, shall not be appealed to if there were to exist any grave transgressions of the law (non-political related crimes) or of the Universal Declaration of Human Rights. Moreover, said liberty of residence is potentially reinforced by article fifteen, which acknowledges the right to a nationality and its corresponding changeability. Ensuring, therefore, safe habitation or, if needed, cloaking of the individual in question.

All three articles in conjunction, each with their parallel restraints, set the frame for the correct treatment and management of migration-related affairs and the population involved; regulating and conceding unfettered movement influenced by the search for asylum.

**Role of armed conflicts.** Furthermore, it is meaningful to recall the circumstances that set the stage for the inclusion of the mentioned articles as crucial elements of the Declaration, being the events that followed World War II great motivators of mass mobilization and indicators of the increasing need for the regulation of migration. The displacement of millions of people throughout Europe, Africa, Asia, and even America, provoked by the establishment of new borders and the unfortunate destruction of various villages, homes to soldiers, civilians, and prisoners of war, instigated by World War II, functioned as the starting point for mass migration. Likewise, the creation of the State of Israel in 1948 further potentiated the transboundary movement, leading to the rearrangement of Jewish and Palestine settlements and prompting their search for shelters across borders, which accordingly, magnified the arousal of appalling circumstances of migrants and refugees at a global scale.

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***Iraq's invasion.*** A clear exemplification of the formerly discussed migratory situation englobes the consequences of Iraq's invasion in 2003. What started as an American effort to dismantle both Iraq's weapons of mass destruction (WMD) and the nation's leader Saddam Hussein's dictatorship, ultimately elicited violent revolts that led to millions of casualties, long-lasting political and social sequels, and the ongoing refugee crisis in the Middle East.

Spurred during President George Bush's regime and aided by allied nations such as Australia, Poland, the United Kingdom, and Spain, the invasion of Iraq began with March 19's "shock and awe" airstrikes that intended to "...disarm Iraq, to free its people and to defend the world from grave danger" (Bush, 2003). These first interventions later escalated to on-land advancement and aggression, although popularly opposed to by insurgents, that lasted for close to one month until their official termination on May 1, concluding major military engagements. And though actual military action was supposedly over, the previously mentioned resistance to the United States-led occupation gave way to the resurgence of subversive groups and conducts; violent raids and suicide bombings posed now a substantial threat to the noncombatant and combatant communities.

The capture of Saddam Hussein on December 13 (the former dictator was executed in 2006), was followed by the controversial news given by the National Security Advisor Condoleezza Rice in January 2004 that the prime instigator of the conflict, the belief of Iraq's possession of weapons of mass destruction, was entirely incorrect. Despite the announcement, the country continued under hostile conditions and governmental transformations that still have repercussions in the present. The armed conflict and armed groups-related aggressions that emerged from this conflict present major threats to decent living conditions of Iraqis, which consequently seek to leave

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their homes in search of a more honorable life.

Following up on the aforementioned conditions, and linking these to the migration crises, it results of great relevance to address the displacements that the 2003 invasion evoked. The US invasion altered the dynamics of the Iraqi population and changed the diversity of the nation, resulting in migration. Approximately 1 in 25 Iraqis were uprooted from their homes, and the United Nations High Commission for Refugees (UNHCR) estimated an approximation of 4 million Iraqis that had been internally and externally displaced into neighboring states. As of today, the massive Iraqis displacements have caused that, out of a population of 31.5 million, 3.5 million individuals prevail as refugees, asylum-seekers, or stateless people in great need of material support from either non-governmental organizations or organs of the United Nations like the UNHCR.

***Afghanistan War.*** Consequences of the same nature have followed the Afghanistan War. Being greatly influenced by the armed groups' attacks of September 11, 2001, in the United States, the conflict arose as an attempt to battle radical attacks and the groups that promote them, being these prime factions al-Qaeda and the Taliban insurgency. Along these lines, as Afghanistan had been dominated by said radical groups for a long time, American and British forces, supported by the Northern Alliance (Afghan fighters), began confrontations in October 2001.

Targeting al-Qaeda's and the Taliban's troops while simultaneously pursuing the leader of al-Qaeda, Osama bin Laden, and seeking the end of extreme violence in the country, the Afghanistan War consumed vast resources and lives as it signified constant armed skirmishes between both parts. Though the Taliban government managed to be ousted in December, Taliban dissension

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against the Afghan government sustains armed groups' assaults that jeopardize Human Rights, well-being, and safety to date.

## Current Relevance

Nowadays, a significant amount of the world's population resides outside their birth country and the number of migrants that leave their houses increases every year, each migrant with different purposes depending on their needs. As a result, the Human Rights of people that are leaving their countries or looking for better opportunities are constantly violated in different ways.

**Migration around the world.** As mentioned, migration is a worldwide issue that has affected all countries and their respective societies. Approximately, more than 2 million immigrants from sub-Saharan Africa resided in the United States during 2018, a comparatively small number since they represented only 4.5% of the approximately 48 million immigrants of the American nation. It is important to know that the population of the area is growing rapidly, increasing by 52% and significantly exceeding the growth rate of 12% of the total population that was born in foreign countries during this same period of time (Echeverria, 2019). It is also relevant to mention that since migration occurs because of several factors that may endanger migrants' quality of life, most of them go to developed nations in search of better opportunities.

**Main factors of migration.** In general, there are two main factors that lead people to make the decision to migrate. Some push factors that occur in the places where people are living that make it less attractive to continue living there are political situations, lack of job opportunities, and danger. Pull factors, on the other hand, happen to the potential target location and make it seem like an attractive place to get to live there, like better job opportunities,

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acquaintances in the area, or simply the opportunity to lead a better quality of life (Khan Academy, 2021).

According to the BBC, migration causes can be classified into the following way:

- Economic migration - moving to find work or follow a particular career path
- Social migration - moving somewhere for a better quality of life or to be closer to family or friends.
- Political migration - moving to escape political persecution or armed conflicts
- Environmental migration - include natural disasters such as flooding

**Violation of human Rights of migrants.** As previously mentioned, all migrants have Human Rights simply because they exist as human beings. These universal rights are inherent to all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental, the right to life, to those that make life worth living, such as the rights to food, education, work, health, and liberty (OHCHR, 2021).

Nevertheless, migrants face situations that put their Human Rights at risk. One of the main challenges migrants suffer in the country of destination are the different types of discrimination because of their skin color, cultural identity, religion or beliefs. There are also some laws of discrimination against non-nationals, with the same programs and policies that are not able to address their needs and vulnerabilities. As a result, some families are unable to have access to basic services or have them at levels that don't meet the

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international Human Rights standards. Migrants that arrive to new countries with an irregularity are constantly detained in centers or prisons, even though according to the international Human Rights law, the deprivation of liberty should be the last resource used.

Giving an example of what was previously mentioned, large numbers of refugees and migrants suffer extreme rights abuses on their journey to the Mediterranean coast of Africa. Another example is that the European Union made its partnership on migration control with Libya despite overwhelming evidence of brutality against migrants and asylum seekers. Support for the Libyan Coast Guard, combined with the International Maritime Organization's recognition in June of a Libyan search and rescue zone, meant that more people were intercepted at sea and subsequently detained in abusive conditions in Libya. A United Nations High Commissioner for Refugees (UNHCR) program to evacuate vulnerable asylum seekers from Libya to Niger did not receive enough resettlement offers from EU countries. In September, UNHCR updated its notice of no return for Libya, emphasizing that Libya is not a safe place to disembark rescued people.

**Countries involved in the problem.** "According to the United Nations, the United States has the highest number of immigrants (foreign-born individuals), with 48 million in 2015, five times more than in Saudi Arabia (11 million) and six times more than in Canada (7.6 million). However, in proportion to their population size, these two countries have significantly more immigrants: 34% and 21%, respectively, versus 15% in the United States" (Webforum, 2017).

A big number of UN organizations are taking actions to contribute to diminish the effects of this issue, such as the OHCHR, which is taking care of migrant Human Rights; the International Organization for Migration; and the World

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Health Organization, since some violations against Human Rights are related to the lack of medical services and the risk of getting sick and also non-governmental organizations like the PICUM.

The United States of America, as said before, being the country that receives the biggest amount of migrants per year, is one of the nations that has a big amount of detention centers. In 2020, the American Civil Liberties Union, Human Rights Watch, and National Immigrant Justice Center released a first-of-its-kind report on immigration detention under the ex-president Donald J. Trump administration: “Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration”. This document redacts how detention centers have changed since 2017, describing the conditions in which people live and develop. Since 2017, 40 new detention facilities have opened in the United States and in January 2020 about 80% of the detained people are in establishments owned by private companies.

In recent years, Canada has adopted both progressive refugee policies and restrictive border control measures, including agreeing to accept more refugees than other countries while at the same time adopting policies that restrict asylum eligibility. Canada’s immigration detention system has also continued to attract criticism, particularly because of its persistent use of prisons for immigration purposes, the carceral environments of its dedicated immigration detention centers, and its failure to adopt a maximum time limit for immigration detention, leaving some detainees facing indefinite detention (The Global Detention Project, 2021).

There are two main ways in which migrants are returned to their original country; voluntary and forced return. Border and enforcement agencies in

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charge of collecting migration data found that the top five countries that experienced the largest outflows in 2018 were Germany (923,580), the Republic of Korea (365,117), Turkey (323,918), Japan (292,059), and the Netherlands (102,802).

**Cases of migration.** Many migrants who have requested asylum and refuge from Central America in countries such as Guatemala, Honduras, and El Salvador move north in search of a better life. Many of these people migrate illegally and are exposed to dangerous situations that are in their way. An International Organization for Migration (IOM) study with more than 2,800 interviews found that in the National Tile Contractors Association (NTCA), approximately 97% of migrants in transit make a great effort to obtain documents that can legally validate their stay in Mexico. In addition, between 59% and 70% of migrants are willing to work in local opportunities in the field of education, employment, or entrepreneurship as an alternative to illegal migration (IOM, 2021).

For its part, the Middle East is a critical region, speaking of mixed migration, since its importance is based on the fact that the region has always been an opportunity for migratory movements. A large part of the migrants and refugees from all over the planet derive from these movements with varied causes; however the most common are armed conflicts, political persecution, climate change, poverty, lack of opportunities, and urban development. Starting in 1990, the number of migrants and refugees in the region tripled to 43 million (17% worldwide) by 2017. “Within the region, the distribution of foreigners varies with 29.1 million migrant workers residing mainly in the Gulf Cooperation Council (GCC) and 5.6 million Syrian refugees residing mainly in Turkey, Jordan and Lebanon” (MMC, 2020).

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On the other hand, South-East Asia is made up of 16 countries and has a population of approximately 2 billion people. The area has a great history of old trade routes and the countries of the region have, to date, strong economic and cultural relations among themselves, as well as with countries outside the region. These countries are home to more than 12 million international migrants, most of whom have had a large-scale impact on the economic development of the area and enriching its culture. Cross-border movements of migrants within the region have increased exponentially, many of them driven by the prospect of better employment and a better quality of life (IOM, 2008).

**Collateral impacts of migration.** About 164 million workers out of a total of 258 million migrants worldwide have a full impact on the economies of their countries of origin and host nations. Commonly, working migrants are excluded from protection coverage in society. Migrant workers, unlike others, face major legal and practical problems that deprive them of social protection benefits due to their status, nationality or short duration of employment and residence. Likewise, the lack of multilateral treaties can prevent workers from obtaining their respective benefits that are important in the long term, such as support for disability, old age, and survival (ILO, 2021).

**Migration and the SDGs.** Migration affects almost all Sustainable Development Goals and hinders their achievement. For example SDG #2, “zero hunger”, since migrants are a very vulnerable group that may not reach programs to help with their nutrition, which also relates with SDG #3 because equitable access to health is often given to the citizens or the people with permanent residency status. Migrants and refugees, mainly girls and women, can suffer from different types of violence during the migration process. Most domestic workers are females, which is related to SDG 5. These are just some

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of the many examples of how migration can affect the achievement of the SDGs (UN, n.d.).

Migrants, throughout the journey and in host countries, can experience different types of violence; among the most common are physiological, physical, and economic aggression. The rate of violence is much higher for women than for men, and migrants can also experience racial and discriminatory behaviors from all people and sometimes work exploitation. According to the UNODC (2015), the acts committed against migrants are constantly done by border and police officials and can take place in the course of individual and collective expulsion. The UNODC (2015) says that “Repressive policies aimed at curtailing migration mean that migrants may turn to smuggle services for lack of alternatives to migrate”.

## **International Actions**

In search of more humane and neat management of migration and the affairs this process entails whilst procuring the adequate honor of asylum seekers' Human Rights, governmental institutions as well as non-governmental organizations work parallelly attending migratory affairs, tackling and preventing scenarios where the welfare of rights are or could be compromised.

The different organs promote international cooperation aimed at ensuring the protection of migrants by providing services and guidance to governments and assisting in the pursuit of feasible solutions to migration conflicts. Concurrently, institutions aid migrants with the establishment of camps, tents, and centers of attention at a national scale while simultaneously providing them with assets and material resources intended to ensure health, education,

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protection, and shelter for refugees; legal and moral counseling are key aids provided as well.

Independent bodies that advocate for migrants such as The Young Center for Immigrant Children's Rights, founded in 2004, advocate for young unaccompanied immigrants' interests. The advice given by associated attorneys and social workers seeks to guard the best interests of the refugee-seekers and provide guidance and support through the different judicial procedures and hindrances they undergo. Therefore, facilitating, as widely as possible, the protection of migrants' rights. These principles are equally backed by Human Rights organizations like the National Immigration Law Center (1979), the Immigrant Defense Project (1986), and the Families for Freedom organization (2002). All of which, through litigation, volunteering, fundraisers, programs, and campaigns, fight against the deplorable conditions migrants and refugees are regularly exposed to.

Whereas most host countries work closely with the advice of the United Nations High Commissioner for Refugees to handle migration concerns and assist refugees and asylum-seekers efficiently, national governments implement individual protocols and programs to sustain the prosperity of the nation while still procuring the safety of asylum-seekers rights.

For instance, in the United States, the Immigration and Naturalization Act (INA) is the current immigratory policy that regulates the permissions and aids granted to transnational hosts since 1965; this body of law establishes for how long and how many immigrants are permitted entrance to the country, therefore permitting control of the immigratory state of the nation.

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Functioning as a drastic adjustment of the previous existing migration policy, under which each nationality was assigned distinct rights, quotas, and migratory guidelines, the INA provided for prioritization to be made based on categories rather than migrants' countries of origin; relatives of US citizens, refugees of violence, and permanent residents would be some of the groups considered in this new act and allowed the entrance to the nation with two main goals in focus: unification and the favorable aid of migrants to the country.

The passage of the Immigration and Naturalization Act allowed, for the following decades and up to the 21<sup>st</sup> century, an increasingly diverse entrance of migrants to the US; the majority of immigrants were now of Asian, Latin, and African descent, distinct to preceding years when European aliens would be dominant.

Whereas the act of 1965 continues regulating the migratory phenomenon, various auxiliary acts and reforms have been applied throughout the decades seeking to provide better enforcement of migration policies. The Immigration Reform Act of 1986, the 1990 Immigration Act, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, are some of these deeds that addressed further migratory policies and to prevail of migrants' and American civilians' security and wellness.

On the other hand, the country's Citizenship and Immigration Services (USCIS), founded in 2003, is a Federal agency within the US Department of Homeland Security (DHS) in charge of regulating immigration laws and services of the nation. The agency is a result of the decomposition of the former Immigration and Naturalization Services (INS) into three organs: USCIS, Immigration and Customs Enforcement (ICE), and Customs and Border

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Protection (CBP). While the last two bodies focus on national and transnational on-land migration-linked security enforcement, since its formation, the USCIS has focused exclusively on the administration of permanent and temporary immigration to the United States, coordinating the residence status of immigrants and non-immigrants (e.g., tourists or students), while being reinforced by complementary state-regulated programs. The Refugee and Entrant Assistance program is one of these complementary imperative organs, seeking to aid refugees and asylees “become employed and self-sufficient as quickly as possible” (The Administration for Children and Families, 2015), and

serve the pertinent requirements to enhance their well-being. The Refugee and Entrant Assistance initiative subsequently funds the following programs:

- Transitional and Medical Services
- Victims of Trafficking
- Social Services
- Victims of Torture
- Preventive Health
- Targeted Assistance
- Unaccompanied Alien Children
- Domestic Trafficking Victims

Each provides cash, medical and financial assistance to refugees or non-profit organizations that harbor the victims to the previously listed particular situations. The programs likewise facilitate job-placement and follow-up services, housing-placement, social adjustment services, interpretation and translation services, childcare services, health services, legal services, and citizenship and naturalization services, as well as grants and federally funded

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benefits that are given to all refugees and asylum-seekers to the same extent, and according to their necessities.

When talking about Africa, the primary migrants-producing nation, the Migration Policy Framework for Africa and Plan of Action (2018 – 2030), serves as the dominant migratory regulator body today. It calls for an international effort to apply policies that allow safe mobility of refugees and migrants across countries; prioritizing the effort to aid the socioeconomic well-being of migrants and society and facilitate safe, orderly, and dignified migration in light of the several challenges posed by migration. It also advocates for the appropriate integration of migrants in host countries, promoting hospitality and solidarity as values for the better treatment of migrants. All this by fulfilling strategies such as international cooperation to resolve migratory-related concerns, implementation of registry systems, screening systems, long-term residency services, health care, security, and labor-prompting services; the correct appliance of said measurements would mean a significant amelioration of the migratory reality of the nation, and subsequently the International migratory dynamics.

Likewise, as a crucial factor in the preservation of rights in host countries, the adequate integration of refugees through the promotion of non-discriminative behaviors is upheld by initiatives enforced and advice to governments. The International Organization for Migration (IOM) is an intergovernmental organization established in 1951 that assesses governments in, among other migration-linked affairs, the prevention of xenophobia, racism, and intolerance, attitudes that lead to violent attacks, and undesired injustices. As part of the suggestions and initiatives the organization internationally endorses, the community work is highlighted. This concept encompasses activities that promote the convenience and the value of diversity such as debating

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championships, cross-border dialogues, workshops, and campaigns that aim to dispel stereotypes and prejudices of migrants, thereby reducing outbursts of discriminative hate crimes.

Speaking of immigration detention systems, the International Detention Coalition (IDC) is a global network created in 2006 and formed by more than 400 organizations, groups and individuals advocating to ensure human rights of people affected by and at risk of immigration detention. This coalition monitors immigration detention systems in more than 100 countries worldwide and aims to ensure that all people in these detention centers live in good conditions and that their basic human rights are respected. They conduct this observance through different types of visits, including internal and external/independent monitoring. Internal monitoring examines all aspects of detention and aims for systemic change to improve respect for rights; while external monitoring focuses on investigating violations and following up on individual cases in detention (IDC, 2015).

All programs, protocols, initiatives, and plans of action previously mentioned, are just some of the various strategies that are being employed by disassociated organs from the UN, in hopes of bettering the living conditions of asylees and refugees in their host countries, as well as of those who are still attempting the entrance to safer countries.

## UN Actions

Attending as well the problem, the agency of the UN in charge of refugees and asylum-seekers is the UN Refugee Agency (UNHCR). The agency was established on December 14, 1950, by the UN General Assembly, and since then it has intervened in all migration crises through; on-field operations, in

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which staff works protecting and assisting refugees, internally displaced individuals and returnees, and the aid of peacekeepers that provide food, water, sanitation, and health care when needed. The UN promotes coordinated action with NGOs and multilateral humanitarian agencies to compile the necessary material (monetary aid, medical supplies, food, shelter, etc.) and non-material resources (legislations, policies, and needed advice) to combat the conflict.

Created by the United Nations, The Global Compact for Safe, Orderly, and Regular Migration, is the first treaty that involves governments at an international level. It has the objective of superimposing all the needs and problems with respect to migratory movements throughout the world in a general and comprehensive way. The agreement was adopted at an international migration conference held in Marrakech, Morocco on December 10, 2018. The Office of the United Nations High Commissioner for Human Rights has supported the Global Compact as a benchmark for strategies to improve the administration of movements. The Global Compact originates from international human rights law, ratifying the commitment of the countries to promote and exercise respect, protection, and fulfillment of the Human Rights of migrants. In this way, it seeks to end non-regression, racism, xenophobia, and discrimination against migrants at any stage of their migration cycle.

The global compact consists of 23 action objectives for the countries, supported by specific responsibilities, that seek to solve the current challenges related to migration. The objectives serve as a guide for countries to fulfill their respective responsibilities, aligning themselves with Human Rights and seeking to reformulate the measures imposed by governments to reduce risks and exposures to migrants in their different stages of transfer. Aiming to

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promote and improve social, political, and labor conditions so that migrants can become involved and actively participate in society, in general, the objectives are to redesign migration policy measures so that they are aligned with Human Rights, minimize the causes of migration, guarantee the legality of all actions, have safe migration routes, respect the labor rights of migrants, avoid all kinds of attacks on Human Rights, avoid arbitrary detentions, guarantee basic services, eliminate speech hatred of migrants and in the event of a return, it should be done safely and with respect for human dignity.

In the context of the UN, the development and implementation of the Global Compact is supported by the United Nations Network on Migration, which was created at the same time as the Global Compact to support, help, and follow up the development of the Global Compact for Safe, Orderly and Regular Migration (GCM). The GCM (2021) states that:

To this end, the United Nations establishes a Network on Migration to ensure effective, timely, and coordinated system-wide support to the Member States. In carrying out its mandate, the Network will prioritize the rights and well-being of migrants and their communities of destination, origin, and transit. It will place emphasis on those issues where a common UN system approach would add value and from which results and impact can be readily gauged.

The network was implemented by the UN Secretary-General to ensure systematic assistance to the implementing countries to prioritize Human Rights and the well-being of people in migration status. It is made up of 38 UN entities that work collaboratively and in a synchronized manner to support countries in addressing their priorities in the area of migration. The network is led by an Executive Committee of 9 UN entities that give general advice and

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prioritize actions. The Executive Committee is made up of the ILO, IOM, OHCHR, UNDESA, UNDP, UNHCR, UNICEF, UNODC, and WHO, with the IOM as Coordinator and secretariat of the Network (OHCHR, 2021).

Regarding migrant detention centers, the United Nations made a statement in 2019 about child migrant detention. The United Nations Migration Network strongly reiterates its position that immigration detention of children and their respective families must be ended in all regions of the world. The detention of children for immigration purposes, whether traveling alone or with their families, has been recognized as a violation of children's rights and can be very detrimental to their physical and psychological health and well-being. As well, The Committee on the Rights of the Child and the Committee on Migrant Workers also “issued authoritative guidance in 2017 affirming that children should never be detained for reasons related to their or their parents’ migration status and States should expeditiously and completely cease or eradicate the immigration detention of children” (United Nations, 2019).

Therefore, the UN organizations that make up the UN Network are supporting governments in all regions to address these issues (immigration and child detention) in a humane manner, in accordance with international human and labor rights standards to put in place viable non-custodial, community-based alternatives to immigration detention that are consistent with international law; to keep families together; and to ensure that the best interests of migrants are always given priority in immigration and asylum proceedings (United Nations, 2019).

The International Organization for Migration (IOM) was created in 1951 and since then has become the international governmental organization that leads in the area of migration and collaborates in synchronization with governmental,

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non-governmental, and international partners. The IOM has 174 member countries, 8 countries with observer status, and offices in more than half of the countries that are part of the organization with the aim of promoting effective migratory movements and respecting human rights for the benefit of the migrants. Likewise, the IOM provides services and support to governments and people involved in the conflict. They also develop strategies that guarantee the orderly and humanitarian transfer in collaboration with all countries in the political and social aspect, avoiding giving rise to problems for migrants. The constitution created by the intergovernmental organization places great emphasis on the relationship between migration and the development of countries in economic, social, and cultural aspects as well as the importance of freedom of movement of people.

The 4 main priority areas for the IOM are Migration and development, facilitating migration, regulating migration, forced migration. The guidance they provide to migrants focuses on Human Rights, government discussions and support, mental and physical health. According to the IOM (2021), it works in the four broad areas of migration management: migration and development, facilitating migration, regulating migration, and addressing forced migration. Cross-cutting activities include the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration. The IOM is based on the principles embodied in the letter made by the UN, which includes the protection of Human Rights for all people. Emphasizing respect for them, the dignity of people, and the well-being of migrants as a priority.

The intergovernmental organization takes action based on various frameworks, mainly of 12 strategies adopted by the leading council in 2007. It develops the main objectives of the IOM, providing an effective explanation of the scope

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and limits of the organization. It was in 2015 that the member countries adopted the Migration Governance Framework (MiGOF), which establishes basic and necessary principles for migration governance. Getting closer to the present, in 2019, as a request of the Director-General of the IOM, a strategic vision was developed with a period of 5 years to plan strategically with a global scope, rethinking some priorities and needs based on a forecast of the changes that will be made over the next decade, what the IOM intends to plan in the period from 2019 to 2023, seeking to solve the problems and fulfill the emerging responsibilities.

This new strategic vision presents the thoughtful rethinking of the IOM based on an assessment of its performance and emerging issues. The new vision has 3 fundamental pillars that are: 1) Resilience, 2) Mobility, and 3) Governance, each one developed to be applied in different strategies depending on the context of the countries. With this, the organization gains more strength as an institution that, complemented with the IOM Strategic Results Framework, intends to make a big change and support migrants. It should be noted that the strategies are enriched and aligned with general frameworks such as the Sustainable Development Goals (SDG), the Global Compact for Safe, and the Orderly and Regular Migration (GCM).

## Points to Discuss

### 1. Context

- a. Causes of migration
  - i. Economic crises
    1. Unemployment
  - ii. Political factors
    1. Civil armed conflicts

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2. State policies that discriminate against certain groups of people
  - a. Human rights violation
- iii. Environmental factors
  1. Climate Change
    - a. Natural disasters

## 2. Development

- a. Violation of human rights and mistreatment of migrants
  - i. In migrant detention systems
    1. Physical and sexual abuse
      - a. To women
      - b. To children
    2. Torture and Inhuman treatments
      - a. Nonconsensual medical or scientific experimentations
  - ii. Murder of migrants that take place during their journeys
    1. From the country of origin to country of destination
    2. From host country back to their country of origin
    3. During land and sea border crossings
  - iii. Discrimination to migrants
    1. Discrimination in respect of employment and occupation
      - a. Labor exploitation
      - b. Denial of social security
    2. Xenophobia
    3. Gender inequalities
  - iv. Unfair arbitrary arrest or detention
    1. Without reasonable causes
  - v. Refoulement of migrants

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1. Denial of asylum
2. Collective expulsion
- vi. Exclusion of migrants in special protections
  1. Denial of health care treatments
  2. Denial to education



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