

ADVANCING HUMAN RIGHTS AT INTERNATIONAL BORDERS

Global Coalition on Migration

New York, 23 October 2014

Church Center for the UN

Statement on behalf of OHCHR

Dear colleagues and friends,

This statement will be read on behalf of our colleagues at the Office of the High Commissioner for Human Rights who, unfortunately, were not able to attend this event.

The Office of the High Commissioner for Human Rights is very pleased that the Global Coalition on Migration has organised an event to celebrate the release of OHCHR's *Recommended Principles & Guidelines on Human Rights at International Borders*. OHCHR is grateful for the invitation and we would not have missed the opportunity of a celebration. However, we must kindly ask you to accept our sincere apologies for not being able to be present with you today. Nevertheless, we would like to say a few words with the kind help of this able speaker.

As you are aware, the *Recommended Principles & Guidelines on Human Rights at International Borders* are the result of a two-year process of drafting and consultations to draw up normative guidelines with a view to translating the international human rights framework into practical border governance measures. Yesterday, they were provided to the 69th session of the General Assembly, accompanying the report of the Secretary-General on the Protection of Migrants (A/69/277) and were officially launched this afternoon.

OHCHR would like to express its sincere gratitude for the unwavering support and enthusiasm with which members of the Global Coalition on Migration, and notably the speakers on the panel today, have engaged in the process of developing the Principles and Guidelines. Members of the Global Coalition on Migration have also been key partners in the discussions on the protection of the human rights of migrants at international borders, including in the framework of the Global Forum on Migration and Development (GFMD) Civil Society Days and at the margins of the Human Rights Council. Your involvement and collaboration have been indispensable in reaching this important milestone. This "celebration" is therefore a very timely and well deserved event to take stock of this achievement and to look to the future on how awareness and use of the Principles and Guidelines could be enhanced.

There are more international migrants in the world today than at any other time in history. This trend is expected to grow. It is estimated that more than 232 million people live outside their country of origin. All over the world, every day migrants continue to cross, or attempt to

cross, air, sea or land borders to escape poverty, discrimination, human rights violations, persecution, to reunite with family, or to seek better living and working conditions.

Tightening the control of international borders, increasing border surveillance measures and reducing the channels for regular entry, force migrants to seek more precarious and dangerous avenues, often operated by traffickers and unscrupulous smugglers.

International borders are conceived by some states in national law and administrative regulations as zones of “exceptionalism” which are exempted from compliance with human rights safeguards, checks and balances. As a result, at land, sea and air borders, migrants are affected by discrimination, violence, arbitrary decision-making, unlawful profiling, excessive use of force, prolonged or arbitrary detention, interference with their right to privacy, and dangerous interception and push-back operations that on occasions may lead to their death.

The *Recommended Principles and Guidelines on Human Rights at International Borders* before you today are aimed primarily at States and seek to support them to fulfill their border governance obligations in accordance with international human rights law and other relevant standards. For civil society they can also be an important tool, helping you to hold States to account.

The Principles place human rights and non-discrimination at the centre of border governance. The legitimate interests of States when they exercise immigration controls should not undermine their obligations to respect, protect and fulfil the human rights of migrants at borders. All migrants arriving by land, air or sea, regardless of their migration status or circumstances, are entitled to equal respect for, and protection of, their human rights, without discrimination of any kind. One of the premises of the Guidelines is that respecting the human rights of all migrants, regardless of their status facilitates the effective governance of borders, rather than hindering it.

The 10 Guidelines contain practical border governance measures, including in relation to building human rights capacity, rescue and interception, assistance, screening, identification and referral, as well as conditions for any necessary detention or removal.

The effective governance of borders requires harmonizing relevant domestic legislation with international human rights standards, and ensuring that provisions of non-discrimination, mandatory protection and assistance, non-criminalisation, accountability, and access to justice and redress, are enshrined within national legislation.

As global mobility patterns become more complex, the role of border authorities and the challenges they face become similarly extensive and intricate. Specially trained personnel and adequate resources are essential so that mandated tasks can be performed in accordance with international standards.

The document also contains practical guidelines on rescue and interception. Rescue operations should be carried out in line with international human rights, refugee and maritime law, ensuring the human rights, safety and dignity of all persons. Relieving imminent danger to lives and ensuring safety should be the first priority for border authorities, as well as private shipmasters.

At places of rescue, interception or disembarkation, immediate assistance should be provided where necessary. This should include medical care, provision of adequate food and water, blankets, clothing, and sanitary items. In the provision of assistance, cooperation with national protection bodies, international organizations and civil society organizations should be sought.

Human rights-based approaches to screening and interviewing people at borders require individualized determination of situations and reasons for entry, as well as the appropriate identification of individuals at particular risk who should be referred on for particular attention. In this context, national mechanisms and communications channels between State authorities, national human rights institutions and civil society organizations should be established or strengthened. It is also essential that service providers, such as interpreters, legal aid and health service workers, are present at international borders.

Some countries systematically detain migrants at borders. The Guidelines establish that alternatives to detention should be sought. Any deprivation of liberty should be a measure of last resort and the reasons for detention should be clearly defined in law, be of limited duration, necessary and proportionate. Children should never be detained on the basis of their or their parents' migration status. There is a need to strengthen procedural safeguards, including the possibility to appeal, to obtain legal aid, and to ensure the legality, proportionality and necessity of any deprivation of liberty.

Any decisions to remove or return migrants should be carried out in accordance with international law and with due procedural guarantees, including upholding the principle of non-refoulement and the prohibition of collective expulsion.

Finally, strong bilateral, regional and international cooperation is needed involving civil society and other relevant stakeholders in order to promote human rights-based, equitable, dignified, lawful and evidence-based migration and border governance measures.

As we have reached our first milestone, the next steps will be the crucial task of disseminating the *Recommended Principles and Guidelines on Human Rights at International Borders* widely amongst all stakeholders. In taking this agenda forward, OHCHR hopes for a continued fruitful collaboration with the Global Coalition on Migration and its members and would welcome your input on ways of promoting the Principles and Guidelines.