

Protecting Maritime Rescue as a Human Right of Migrants and Refugees

Committee Guide

Human Rights Council



Table of contents

Committee Guide	1
1. Personal Introduction	3
2. Committee Introduction	4
3. Content.....	4
3.1 What measures have already been taken?	4
3.2 Possible Solutions	6
4. Helpful Links.....	7

1 Personal Introduction

Hello everyone, my name is Alex Siekmann and I was supposed to be one of the chairs of this year's HRC. Of course, with everything going on at the moment (#corona), we sadly will not be able to see all of the potential delegates in person, but we will still be overseeing the OLMUN@home that the secretariat is organizing.

Concerning myself, I am 18 years old and grew up and went to school here in Oldenburg until I graduated last year. I am currently a biology and biomedicine student at Trinity College Dublin, now being forced to study at home and online (it is not going well). This would have been my second conference as a chair and my fifth one overall. I started attending the OLMUN at the ripe age of 15 and had a lot of fun every time.

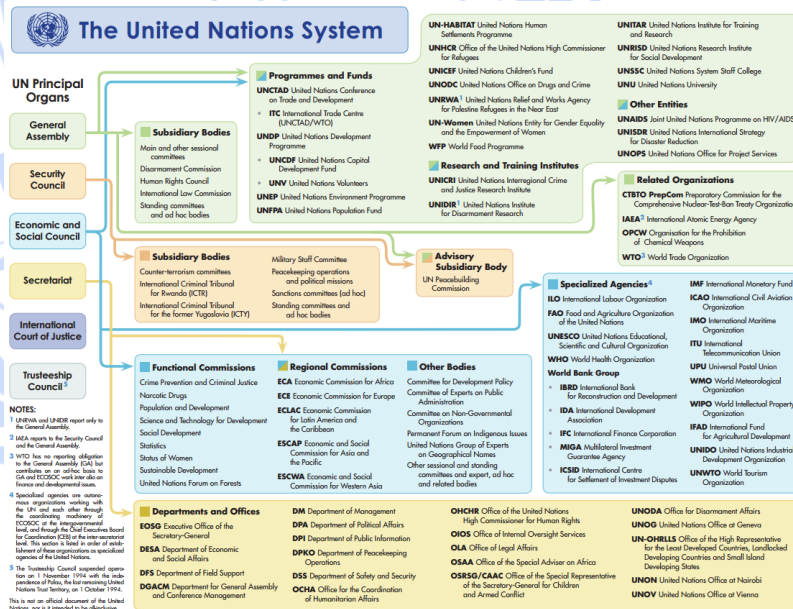
And my name is Hanna Gesang! I don't have much to add to what my lovely co-chair wrote, but here's a quick introduction of myself. I'm from Oldenburg, spent the last two years of highschool in the UK and am now studying International Politics and Government at Bocconi University in Milan...well, to be precise, right now I am studying politics online from my bed in Oldenburg (not loving it and yes, I miss the pizza). This would have been my first time chairing, although I have attended OLMUN two times as a delegate and also been to BIMUN in Bonn as well as having been a part of my school's and university's MUN teams.

We hope everyone who is reading this is not too sad that the OLMUN had to be cancelled and that you still have a lot of fun doing the OLMUN@home project. Stay safe and healthy and we hope to see you at next year's OLMUN!

Alex & Hanna

2 Committee Introduction

The United Nations structure is very complicated. Here is a picture that gives you a brief overview:



Essentially, there are 6 main organs: The General Assembly, the Security Council, the Economic and Social Council, the Secretariat, the International Court of Justice and the Trusteeship Council. Each of these have further subsidiary organs with more specific tasks. The United Nations Human Rights Council is one of the subsidiary organs of the General Assembly. Even though it

belongs to the GA, there is close cooperation with the Office of the High Commissioner for Human Rights (OHCHR), a part of the Secretariat.

The council's 47 members are elected by the GA for three-year terms, in every year a third of the council is replaced. The number of seats is further subdivided to ensure equal weight of different regions. Since its foundation in 2006, replacing a previous similar organ, the council has met several times a year on a regular basis as well as whenever deemed necessary as a reaction to current human rights crises.

It undertakes a review of the state of human rights in all UN member states on a regular basis called the "Universal Periodic Review". Furthermore, the council holds the power to review complaints regarding human rights launched via the official complaints procedure. Using the UN's so-called "special procedures", the council can appoint special rapporteurs to evaluate the human rights situation in a country.

3 Content

3.1 What measures have already been taken?

Maritime Rescue is the term given to saving people in distress at sea. This is a topic that mainly affects migrants and refugees, travelling huge bodies of water in small and unsafe vessels not built for this kind of enterprise. Unsafe travelling practices lead to the loss of many lives every year, all around the world.

These numbers are increased by the current policies in place that do not protect the rights of the people that took to the water. While the protection of refugees, asylum-seekers and migrants travelling by sea forms an integral part of international human rights, refugee and maritime laws, in practice these are not always upheld.

While maritime laws, as well as seafarer tradition, requires captains to pick up people in distress, this practice is not aided by current policies. Many boats and crews have been penalised for rescuing people in distress. Some ports even turn boats with rescued refugees on board away, further discouraging captains of ships to pick up people in need.

Sea rescue is a highly complex topic with many different actors and states involved, all with different motives and, in the case of states, usually all with different policies, making the matter even more difficult. This is why there is a need for a uniform policy as per the United Nations that gives compact solutions to the current troubles.

While states have clear obligations to aid people found in distress, many of the recently implemented laws and policies have been contrary to the legal obligations to ensure effective search and rescue operations, safe disembarkation and treatment of people.

Furthermore, many search and rescue operations have been reduced, leading to longer distress time for refugees and many deaths. In the case of the Mediterranean, the Mare Nostrum operation, aimed at saving lives, was discontinued in the midst of a height of maritime refugees and instead replaced by other missions with reduced capacities and their prime objective not being search and rescue (SAR).

As was noted in many states over time, there is often a lack of comprehensive policies to deal with maritime refugees, leading to crisis-driven responses that can have many unintended consequences that were not previously taken into consideration. To make sure this does not happen again, there needs to be a strong policy in place to help states deal with surges of refugees without having to resort to crisis policies.

The basis of all UN action regarding maritime issues, including rescue, is the United Nations Convention of the Law of the Sea (UNCLOS), that came into force in 1994. Other relevant international legal documents are the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR). Whilst they contain many topics and it may be worthwhile for delegates to have a look at summaries, they most importantly stress responsibility to aid vessels in distress.

The most significant action taken by the UN on the topic of maritime rescue in recent years has not been led by the HRC. Instead, the UNHCR has played a significant role by drafting a Global Initiative on Protection at Sea. It was implemented following the High Commissioner's dialogue on Protection at Sea in 2014, during which 88 countries, 52 NGOs and 13 IGOs under the leadership of the UNHCR, OHCHR, the International Maritime Organisation (IMO) and other relevant organisation discussed the topic extensively.

The key goals of the initiative are *“to reduce loss of life at sea, as well as exploitation, abuse and violence experienced by people travelling irregularly by sea, and to establish protection-sensitive responses to irregular mixed migration by sea”*¹.

Key topics addressed to achieve the aforementioned are: the strengthening of SARs capabilities, the removal of disincentives to rescue, the implementation of already existing international law and IMO guidelines, the equal sharing of the burden by coastal and non-coastal states and the addressing of the root problem of irregular maritime movements. All of these topics could be addressed in an HRC resolution.

The initiative cites the Djibouti Model Regional Framework as an example for possible regional arrangements. This was developed by an expert conference in 2011 which was addressing the situation of maritime rescue in the Gulf of Aden (between Yemen and the Horn of Africa) specifically. Essentially, this framework could act as a strategy for multiple actors in a region to assign responsibility for disembarkation, reception and resettlement of refugees, if needed with the help of the UNHCR.

In 2015, the UNHCR review the initiative through a stocktaking exercise, together with the Global Migration Group consultancy. In their report, they stressed the importance of increasing collaboration between different agencies playing a role in maritime rescue and pointed out how important strategies such as SARs could profit from it.

3.2 Possible Solutions

As stated above, a previously written paper by the United Nations High Commissioner for Refugees (UNHCR) states the main goals of maritime rescue as *“[to] reduce loss of life at sea as well as exploitation, abuse and violence experienced by people travelling irregularly by sea and establish protection-sensitive responses to irregular mixed migration by sea”*.

In other words, the main objective of any policy written on this topic should be the protection of lives by reducing distress at sea and reducing safe embarkation into countries respecting the rights of the refugees.

There are different areas of action that are necessary for the help to be effective.

For one, the coordination of an effective search and rescue operation should be ensured. For this, the existing capacities need to be used to their full extent and then the capacities need to be increased.

Then, policies guaranteeing the safe and timely disembarkation of rescued people need to be implemented. This includes making sure the rescued people are only led to disembarkation in countries that are safe for them. A rescued person cannot be returned to a country where they were persecuted.

For this to work, countries need to cooperate. There should also be a cooperative effort to create safe and legal routes that migrants can travel on to discourage them

¹ <https://www.unhcr.org/5375db0d9.html>

from entering oceans in unsafe vessels. Countries should consider topics like refugee settlement programs and humanitarian visas as means to encourage safe and legal migration, decreasing the need for maritime rescue.

Furthermore, countries need to stop penalising third parties that rescue people found in distress at sea.

NGOs are already working on many of these issues and their expertise should be relied upon for future policies and operations. This begins with stopping to hindering their work, like many current policies do.

All of these issues are deeply interconnected and should be treated as a whole. When implemented correctly, all future measures should prevent the continued loss of human lives and also protect migrants from being caught in the current political vacuum.

4 Helpful Links

Council of Europe recommendation

<https://rm.coe.int/lives-saved-rights-protected-bridging-the-protection-gap-for-refugees-/168094eb87>

Paper on irregular maritime migration and on rescue of asylum seekers at sea

<https://www.migrationpolicy.org/news/protection-sea-addressing-irregular-maritime-migration>

<https://www.migrationpolicy.org/article/troubled-waters-rescue-asylum-seekers-and-refugees-sea/>

News site regarding maritime rescue in the Mediterranean sea

<https://www.infomigrants.net/en/tag/mediterranean%20sea/>

News article on maritime rescue crisis involving Italy

<https://www.dw.com/en/un-warns-italy-against-criminalizing-sea-rescue/a-49437003>

SOLAS convention

https://en.wikipedia.org/wiki/SOLAS_Convention

<http://solasv.mcga.gov.uk/regulations/regulation07.htm>

UNHCR Global Initiative on Protection at Sea

<https://www.unhcr.org/5375db0d9.html>

<https://www.unhcr.org/540d6e5f9.html>

Overview over the Human Rights Council

https://www.ohchr.org/Documents/HRBodies/HRCouncil/HRC_booklet_EN.pdf

Explanations of Special Procedures

<https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

High Commissioner's Dialogue

<https://www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2014.html>

Djibouti model

<https://www.refworld.org/docid/4ede0d392.html> Annex I in particular

Rescue at Sea, 2015 summary

<https://www.refworld.org/docid/54b365554.html>

Stocktaking exercise on protection at sea

<https://www.refworld.org/docid/570799034.html>