



NATIONAL CONSULTATIVE COMMISSION
ON HUMAN RIGHTS

Opinion on migratory movements resulting from the “Arab Spring” uprisings

(Adopted at the plenary session on 23 June 2011)

1. A number of North African and Middle Eastern countries are currently in an unprecedented situation as a result of the popular uprisings protesting against authoritarian regimes that have ruled for “*decades of denial of civil, cultural, economic, political and social rights, as well as the right to development*”¹. The National Consultative Commission on Human Rights (CNCDH) welcomes the first steps of these rebellions, which were soon to become known as the Arab Spring, although it now finds that the peoples making legitimate claims continue to be victims of repression. In such a context, whether freely or under force, many nationals and residents in these countries have left.
2. Very many people have been displaced, and the large majority of those people that have managed to leave territories at war have found refuge in neighbouring countries. To date, of the 1,094,380 people that have left Libya, 910,000 have been given refuge in the neighbouring states of Tunisia, Egypt, Niger, Chad and Algeria². Recent events in Syria risk producing a similar situation. In Europe, we cannot really talk of a massive inflow of migrants: to date, Europe has received around 24,000 people from Tunisia and 16,000 from Libya, derisory figures in relation to the European Union’s 500 million inhabitants.
3. In this context, the CNCDH regrets “*the rhetoric of recent months, in Italy and France in particular*”³, and the tendency to depict migrants “*as a singular problem best offloaded elsewhere*”. On the contrary, it is important to help the host states receiving these migrants, Egypt and Tunisia, and to share the burden which has fallen disproportionately upon them. The CNCDH would also like to emphasize that the political response on the part of France and Europe to this migratory flow raises serious questions in terms of human rights and refugee law.
4. Migrants who decide to leave southern Mediterranean countries and go to Europe often do so as a matter of urgency and on the spur of the moment, and, in spite of all the risks, travelling across dangerous sea routes. Many never even reach the European continent, but are killed or lost at sea: the United Nations High Commissioner for Refugees (UNHCR) estimates that around 1,500 people have lost their lives in this manner since 25 March 2011.
5. The CNCDH recommends that France and the other European Union Member States comply with the clearly defined international obligations undertaken by the Member States⁴, particularly insofar as these

¹ Opening Statement by Ms. Navi Pillay, United Nations High Commissioner for Human Rights at the UN Human Rights Council Session of 30 May 2011.

² According to the UNHCR’s latest estimates, this includes:

575,789 people to Tunisia, population of 10,000,000, GDP of 39.56 billion US dollars

356,207 people to Egypt, population of 80,000,000, GDP of 92.822 billion US dollars

73,458 people to Niger, population of 14,000,000, GDP of 5.38 billion US dollars

43,975 people to Chad, population of 10,000,000, GDP of 6.84 billion US dollars

24,050 people to Algeria, population of 34,000,000, GDP of 140.58 billion US dollars

³ Speech by Ms. Navi Pillay, United Nations High Commissioner for Human Rights, as cited above.

⁴ The obligation of the master of any ship to render assistance to any person in distress at sea and this regardless of that person’s nationality has been endorsed in several international conventions, notably in the 1982 United Nations Convention on Law of the Sea (UNCLOS), the 1974 International Safety of Life at Sea Convention (SOLAS) and the 1979 International Convention on Maritime Search and Rescue (SAR). See A guide to principles and practice as applied to migrants and refugees, UNHCR and IMO; and also: *La protection des migrants en Méditerranée*, K. Debbèche, in *Actes du Colloque « L’UE et la protection des migrants et des réfugiés »*.

concern the right to life and, in the case of asylum seekers and refugees, the principle of non-refoulement. The authorities in each country must, therefore, firmly and without exception remind all seagoing personnel, especially crew on vessels flying the French flag or the flag of any other European country and military vessels that regularly sail through these waters, as well as the European Union Agency, FRONTEX, that the right to life must, under all circumstances, take precedence over management of migratory flows and that they have a duty to rescue any person in distress at sea.

6. The number of distress situations observed shows that it is absolutely necessary to develop a preventive and protective system for persons coming to the European continent by sea. In any case, the departure of persons in need of protection must be facilitated, and, if necessary, humanitarian corridors should be set up. France should support the development of a European assistance, rescue and protection force. It should also take advantage of the ongoing revision of the FRONTEX Regulation to re-define the responsibilities of this operational agency.

7. Whatever the responses that can be provided, according to the country of origin and the different legal situations, the CNCDH would recall that people arriving on the European continent must, in all cases, have the benefit of the sort of protection implied by France's express desire to support countries going through a phase of democratic transition, especially out of a concern for consistent political action. Above all, the response should be at European level, given that immigration and asylum are no longer, since the Treaty of Amsterdam, issues that come solely under the authority of the individual Member State. The CNCDH nonetheless recommends that the French Government should take the initiative and propose protective measures appropriate to such a specific and temporary emergency situation as this to its EU partners, beginning with implementation of the legal instruments already defined in the texts (the Temporary Protection Directive and the procedure related to resettlement in the host country). In addition to receiving such people, France should also propose that the EU adopt a positive approach to migration based on respect for human rights, and especially for human dignity, and on cooperation, on an equal footing, with countries of emigration and transit countries. Viewed from this angle, France's opposition to any schemes related to resettlement within its territory or in Europe is worrying

8. In the matter of asylum, the CNCDH calls on the EU Member States to assume their responsibilities and take stock of the consequences, in such a crisis situation, of policy designed to externalise the processing of asylum applications to North African countries. As things stand, people with refugee status who leave the host country due to armed conflict and are unable to return to their country of origin, must be able to find refuge in France and in Europe, as is appropriate to their status as refugees⁵. Regarding this point, France, in liaison with the UNHCR, should, given the situation, commit to the resettlement programmes developed by the UNHCR⁶. 6,000 refugees are awaiting resettlement at the borders, and the UNHCR currently has placements in different resettlement countries for around 1,000 people (USA, Canada, Norway, Sweden, Belgium, Portugal, etc.); France has not offered one placement.

9. In any event, the CNCDH recommends paying particular attention in this crisis situation to the principle of examining every application submitted by every migrant, and especially every asylum seeker, on an individual basis, to complying with all the other substantive and procedural legal safeguards, especially those designed to guarantee them material conditions in the host country that respect their dignity. For any persons that express the desire to return to their country of origin, it is also France's duty to enable them to return with dignity, notably by providing the material aid they require.

10. Only such an attitude on the part of France will enable it to uphold its international commitments and meet human rights requirements.

(Adopted unanimously: 38 voices in favour)

⁵ To date, approximately 6,000 refugees with no long-term solution are awaiting resettlement at the Tunisian and Egyptian borders.

⁶ The UNHCR has currently received placements in different resettlement countries for around 1,000 peoples (USA, Canada, Norway, Sweden, Belgium, Portugal, etc.).