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May 2025

Time to change course

Human rights of migrants in the EU and North Africa

Friedrich Ebert Stiftung

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Content

1. Introduction

The Universal Declaration of Human Rights[1] is the foundation on which international human rights law has been built to the present day. For democratic states, respect for human rights is the inalienable foundation of their policies aimed at preserving the freedom and rights of their citizens, including in foreign policy, precisely because of the universal and ordering value of international law associated with them. But it is obvious that this foundation has been under pressure from various sides for some time:

Authoritarian regimes with the greatest global weight are openly contesting the interpretation and development of the Declaration, which they would like to make compatible with their political ideology and practices.[2] In doing so, they deny the universality and unity of human rights.

In democratic societies, too, there is a growing chorus of voices challenging the notion of universal human rights. The European far right argues on ethno-nationalist grounds that the universality of human rights hampers the ability of states to protect the rights of their own citizens and to maintain internal security. Other European voices advocate the possibility of excluding certain categories of people from the full scope of human rights.

Migration and migrants are the subjects most easily identified as a collective – outside the demos – to be excluded,[3] both in the EU and in third countries. In practice, it is now widely accepted that the respect and defence of human rights should not be made a condition for relations and cooperation between the European Union and third countries. Cooperation agreements to restrict migration have been the starting point for this shift.

North Africa, with its proximity and historical ties to Europe, has emerged as a key region of origin and transit for migrants. Cooperation in support of migration control is an important aspect of the European Union's strategy for managing migration flows in the region. This has led to serious human rights violations that are contrary to fundamental European values.[4] As the region grapples with internal challenges and ongoing geopolitical instability, such

agreements have empowered fragile states, often with weak legitimacy and power at home, further undermining their stability and inadvertently forcing more people to leave and migrate to Europe. Instability and human insecurity are at the heart of the causes of emigration.

In this context, migration and the national/alien dichotomy acquire a new significance, both on the international stage and within democratic societies, and the human rights of migrants take on a new meaning.

This brief is based on the presentations and discussions of the Future Forum on Human Rights, which was part of the International Conference: 'Migration: A progressive formula' organised by the Friedrich-Ebert-Stiftung in September 2024. The text therefore follows the logic of the Forum and aims to link the EU and North African perspectives. As a result, the brief addresses the following issues: description of the key characteristics of migration management in relation to human rights today and identification of the two main challenges facing this system and two resulting possible future scenarios for migration policy (continuity vs. change). Finally, the authors, who were also speakers at the Future Forum, formulate what is at stake in the future scenarios and offer ten recommendations on how to change course and shape a progressive migration policy.

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1   United Nations, Universal Declaration of Human Rights.

2   China advocates the application of the UDHR according to national traditions, specifically according the interests of the state primacy over the interests of individuals. Rusia considers any international pressure to apply the UDHR as external political interference in its internal affairs. Other countries challenge the interpretation of the UDHR on the basis of their traditions and religion-based legislation.

3   Legislation in EU member states raises concerns about the fundamental rights and protections of the families, detention and judicial protections enshrined in the UDHR.

4   The Atlantic Council, The 'European Values' of the Libya Migration Deal, March 2017

2.
Human rights and migration management in the EU and North Africa

2.1 Key characteristics

The current system of migration management is characterised by three core aspects: The border as the central arena, crisis management as the central mode of operation, and cooperation between the states involved as an indispensable condition for success.

The management of migration in both the EU and North Africa is primarily concerned with border issues, the control of EU borders and the control and containment of migration at North African borders (Mediterranean and Sahara). Return agreements with transit and origin countries, both from the EU to the region and from North African countries to the South, are key elements of this approach. In this context, the human rights situation is of particular concern in the following areas: a) the border as a space of exclusion of rights; b) entry control and possible access to the protection system; c) situations of deprivation of liberty or freedom of movement; d) detention and forced return.[5]

Migration management within the EU has been conducted in a permanent crisis mode throughout the twenty-first century,[6] regardless of the reality of migration and the numbers, which have gone from a few thousand after the Tunisian Jasmine Revolution,[7] to more than six million Syrians fleeing the war and humanitarian crisis in the region, to thousands again today fleeing the Sahel and other African and North African crisis situations already mentioned. At this stage, the EU and European member states have taken restrictive measures to deter arrivals, which have been translated into bilateral agreements with Libya, Tunisia and Egypt, among others. The agreements aim to strengthen the national borders of these countries and to secure their acceptance of the return of those attempting the sea journey in exchange for economic and political benefits. The ethics of these deals have been questioned. Yet there is no real debate about their future effectiveness for sustainable migration management in the region and in the EU. The relationship between countries of origin, transit and destination is key to the success of any effort to manage migration. This also applies to the successful implementation of the Common European Asylum System (CEAS), which was adopted in May 2024 after eight years of negotiations. In recent years, the European Union and its member governments have looked outward for quick and effective action. Today, migration cooperation and migration diplomacy are on an increasingly separate track linked to security. The relationship with broader interregional cooperation is weakened. When they are linked, it is often to leverage migration agreements.

2.2 Geopolitical challenges

In the current context of political instability marked by wars, protracted conflicts and human insecurity – including poverty and diminished life prospects in the context of climate change – forced displacement and mixed migration flows are on the rise. In Africa, this situation is driving migrants from the Sahel, West Africa and the Horn of Africa northward. In North Africa, political instability and economic hardship in Tunisia and Libya pose significant challenges for these countries and the wider region. As migration management continues to be focused at the border, cooperation that violates international and human rights obligations is being praised and replicated in other countries. Europe risks exacerbating insecurity and instability in a region already ravaged by war and conflict by strengthening authoritarian regimes in North Africa. This approach may perpetuate dependence on European states and prevent African nations from taking responsibility for crises within their borders. It is also likely to increase tensions within and between African nations.

The situation of the migrants and the asylum seekers themselves, including those fleeing extreme hardship, and the protection of human rights are sidelined. This can lead to increased tensions, humanitarian crises and even further instability in the region, perpetuating the cycle of instability and migration.

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5   OHCHR, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, October 2020.

6   With the exception of the Ukrainian refugees fleeing the war.

7   In early 2011, Italian authorities registered the arrival of 43,000 people at its sea borders, including 28,000 Tunisians, compared to an annual average of 19,000 in the period 2000–10 (including 1,700 Tunisians), https://www.migrationpolicy.org/article/revolution-and-political-transition-tunisia-migration-game-changer.

Agreements between the EU and North African countries

As Tunisia navigates its fragile democratic transition, the number of people arriving in Italy from Tunisia reached an all-time high in 2022, namely 32,371 individuals.[8] This increase coincided with an authoritarian shift under President Kais Saied, prompting the EU to advocate for a 'strategic and global partnership' with Tunisia.[9] The situation is no different in Libya, which has been embroiled in conflict since the overthrow of the Gaddafi regime in 2011. Today, two rival governments are vying for power, and local militias often exercise more control than the official government, complicating efforts to establish the rule of law and governance structures.[10] The lack of effective governance in North Africa has created an ecosystem conducive to a thriving network of smugglers and traffickers who exploit vulnerable migrants and refugees.[11] This fosters irregular migration and human trafficking, leading to humanitarian crises in the Mediterranean as thousands attempt the sea crossing to Europe each year. Many migrants and refugees in Libya, Tunisia and Egypt face significant dangers, including violence, exploitation and inhumane conditions. This is particularly evident in countries such as Libya, which has become a major departure point for migrants to Europe, accounting for 56% of total arrivals in 2024, overtaking Tunisia. Nevertheless, cooperation between the EU and local authorities on migration management has increased, with a focus on increasing interceptions and pushbacks from the Mediterranean.

The agreements with countries of origin and transit address the immediate political concerns of European and North African leaders and provide incentives for cooperation targeted at the authorities in these countries. The agreements depend on the willingness of these authorities; indeed, they depend on the stability of their governments, as demonstrated by Niger. This purely transactional approach with countries that are often struggling with economic hardship that mean that they are overburdened and unable to absorb the influx of migrants implies a de facto acceptance that these countries can act differently from the EU because of its weak commitment to human rights and international law.

European relations with neighbouring countries and sub-Saharan Africa are limited. Other internationally relevant actors, including Russia, are playing geopolitical games in these regions. The Union's ability to maintain credible leverage for international cooperation in accordance with its principles and strengths is weakened. The use of migrants and border management as a threat is incentivised in international political negotiations, so that the EU's reliance on these agreements can become an asset for third countries in their European and bilateral relations.

Migration situation in Tunisia and Libya

Despite growing concerns about human rights practices in North Africa, the EU has continued its support and cooperation with North African countries, as exemplified by the signing of a new Memorandum of Understanding (MoU) with Tunisia in July 2023.[12] As a further extension of this strategy, the EU signed a new agreement with Egypt in 2024 worth €7.4 billion, while discussions are underway for a subsequent agreement with Morocco.[13] In addition, the existing MoU between Italy and Libya, established in 2017 to address migration management, was renewed in February 2024,[14] despite documented cases of violence and abuse being committed in Libya by state actors such as the Libyan Coast Guard.[15]

The migration agreements with North Africa may have yielded short-term results in reducing arrivals and asylum claims in the EU in the immediate aftermath of their signing. In retrospect, however, there is little evidence of their sustainability. At a deeper level, they weaken the EU's geopolitical capacities, legitimise authoritarianism, and undermine international law, thereby legitimising these governments and their practices while emboldening those who promote the same prescriptions in the European political arena. Critically, they also undermine the possibility of a cooperative approach to migration and asylum in the region that works towards scenarios of greater political, economic and social stability.

8   Statewatch, EU support for violent and authoritarian regimes: no end in sight, October 2024.

9   Ibid.

10   Ibid.

11   Tim Eaton, How conflict in Libya facilitated transnational expansion of migrant smuggling and trafficking, March 2025.

12   European Commission, Memorandum of Understanding on a strategic and global partnership between the European Union and Tunisia, July 2023.

13   Politico, EU leaders ink €7.4B economic aid, migration deal with Egypt, March 2024.

14   Carnegie Endowment, From Tunis to Cairo: Europe Extends Its Border Across North Africa, April 2024.

15   Carnegie Endowment, From Tunis to Cairo: Europe Extends Its Border Across North Africa, April 2024.

2.2.1 *Future option continuity:*
The fiction of control resulting in decreasing legitimacy

The EU's priority remains the closure of the other side of the border and the borders between the countries of Southern Sahara and North Africa, as well as the acceptance of repatriations by the African countries. The political and economic conditions of the countries of origin and transit are accepted by the European side. Compliance with international law is not sought in such arrangements. Governance capacities for migration management are increasingly weak on both sides. The EU's dependence on third countries is growing, as are their incentives to weaponise migration. This occurs both bilaterally with neighbouring countries at the immediate European external borders and as part of broader geopolitical games. The EU's geopolitical capacity is damaged as a result.

Instability and protracted conflicts continue in North Africa as countries in the region continue to detain migrants and focus on forced expulsions. Law enforcement and border guards are given complete authority over the lives of migrants and refugees, with no oversight of how the latter are treated and no legal process, while at the same time functioning as a key partner of the EU. The consolidation of human rights exception zones is a basis and guarantee for the functioning of the bi-regional migration governance system. While the EU focuses on preventing migrants and potential refugees from accessing its borders, the asylum system in North African countries remains weak or almost non-existent, even though some of these countries are signatories to the 1951 Refugee Convention. All North African states delegate most or all of their asylum procedures to the UNHCR, thus abdicating their responsibility to protect.

Mixed flows continue to arrive in EU member states. The number of returns remains low as the obstructive conditions remain unchanged. The criteria for determining eligibility for international protection are becoming increasingly unclear. In the EU, both national asylum systems and the Common European Asylum System are losing their ability to uphold rights. Refugee protection in the North Africa region remains extremely poor. The institution of asylum as enshrined in the Geneva Convention is being eroded.

2.2.2 *Future option change:*
Migration governance as an integral part of EU-Africa relations

Migration is conceptualised as a system and recognised as a pivotal part of the Africa-EU geo-economy. A holistic approach is developed. Migration becomes the entry point for better economic and political cooperation based on international law. Short- and medium-term actions are combined. Migration is integrated into the mainstream of the EU's external action, avoiding a separate migration diplomacy primarily linked to security. Efforts are made to better understand international migration and to work with it – and with migrants – on both sides of the African-EU migration system. The identified areas of violations are narrowed down and respect for human rights is strengthened. Geopolitical capacity is restored. Action is taken against those who exploit or threaten to exploit migration, not against the migrants themselves.

In the EU, anticipatory capacity is built and the resilience of the European migration and asylum system to potential crises is strengthened. Potential crises are anticipated and the optimal course of action for each situation is assessed. The resilience of the system and its capacity to respond with different instruments are strengthened.[16]

Efforts are made to build cooperative local, national, regional and interregional alliances. The Charter of Fundamental Rights is used to improve the national and European management of migration and its outcomes. Adherence to international law and effective respect for human rights are strengthened among EU member states, within African actors, and in bilateral and regional relations.

More stable North African countries can rely on their own resources (including international cooperation) and mechanisms to manage migration humanely, including national asylum procedures and protection systems. Cooperation among African states is strengthened, reducing dependence on the European Union and its member states, and vice versa.

Gateway structures are established along the various possible entry routes. New capacities are developed in countries of destination and transit to deal with the situations of persons whose removal is not feasible. New alliances are forged within the European Union, in North Africa and Sub-Saharan Africa, and internationally for the international defence of human rights law in the international management of displacement and migration, in line with the UN Global Compact for Safe, Orderly and Regular Migration (GCM), promoted and signed by North African states and the majority of EU member states. Migration governance is strengthened.

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16 As with the triggering of the Temporary Protection Directive for Ukrainians fleeing the war,
https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

2.3 Challenges for Democracy

Political and electoral debates in the EU and EU member states are characterised by xenophobic and racist sentiments, which serve to promote and protect discrimination and the exclusion of refugees and migrants from the human rights framework, including labour and social rights. This fosters a dual labour market – including the informal and illegal economy – and increases inequalities. Xenophobia and racism transcend the realm of migration and lead to a distinction between more and less rights-worthy subjects within the national community. The threat to human rights thus extends to the demos itself. Beyond EU borders, this limits the scope and attractiveness of European values.

In North Africa, discrimination and violence against black migrants, often fuelled by state-led campaigns,[17] are on the rise. Racism and xenophobia against migrants have become more pronounced, influenced by a variety of social, political and economic factors. These attitudes often manifest themselves in discriminatory practices and policies that not only affect the lives of migrants, but also reflect broader societal tensions that are prevalent today in countries such as Tunisia and Egypt. These societal perceptions of migrants are shaped by stereotypes that portray them as a threat to national security, cultural identity and economic stability, stereotypes that are legitimised by democracies that turn a blind eye in this area.

Xenophobic sentiments are used to justify detention, forced return and deportation as a strategy to manage migration in North Africa, in order to meet the demands of European member states to curb migrant arrivals. However, the effectiveness of these forced return policies is often questionable, as are the violations that accompany the process.

The line between those who deserve to be considered full citizens and those whose human rights can be exempted from equal treatment is further blurred. Authoritarian fragile states and their leaders are legitimised. Migration, presented in terms of them or us, is the entry point for policies that weaken rights and naturalise discrimination. Once this possibility is established and legitimised, the effects extend beyond migrants and migration to society as a whole, threatening the aspirations and survival of democracy itself.

2.3.1 *Future option continuity:* Towards societies with different standards of rights

The denial of the positive role played by migrants in European economies – and in geo-economics – as well as its framing as an unfortunate necessity of the labour markets in the EU member states continues to erode workers' rights, to reinforce duality in the labour market and encourage the re-emergence of the informal economy and the illegal economy.

The radical changes that the labour market is undergoing due to, among other things, technological change, include these trends. The induced perception that social benefits go disproportionately to foreigners and certain nationals who 'inherit' migrant status undermines support for the welfare state.[18]

Voices legitimising xenophobia and racism in political and electoral debates on social discontent focus on migrants and migration (link to security issues). Discrimination and a real deterioration in the ability to exercise fundamental rights become naturalised.

This is well received by fragile authoritarian regimes, which encourage this discrimination and violence against migrants, further entrenching systemic racism. Such actions also serve to justify repressive measures not only against migrants, but also against any dissenting voices within the local population that might advocate for human rights or criticise government policies, including the criminalisation of civil society organisations. The plight of nationals living abroad as emigrants is often ignored and attempts to control the diaspora are intensified.

Social and economic discrimination based on racial discrimination feeds authoritarian options and works against stability and social cohesion, while reinforcing the above-mentioned dynamics of instability, increased mobility through irregular channels and abuse of migrants. This affects not only migrants, but society as a whole.

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17 In February 2023, there were reports of mass arrests and deportations of migrants and refugees in Tunisia to a desert border area with Libya, sparked by community tensions and violence exacerbated by the president's statements against black migrants. Similar patterns can be seen in Egypt and Libya, where a militarised and criminalised approach to migrants and refugees is being adopted. In these countries, authorities deny migrants access to asylum and arbitrarily detain them without due process. In addition, pushbacks and forced returns are practiced in Libya, and recently in Morocco, as an approach to deterring migrants from arriving in Europe, while denying them their basic rights. In 2023, around 87,000 migrants were prevented from crossing to Europe from Morocco, while 17,190 migrants were intercepted at sea and returned to Libya with the support of the EU.

18 Alberto Alessina; Armando Miano; Stefanie Stantcheva, NBER WORKING PAPER SERIES, Cambridge Immigration and Redistribution, March 2022

2.3.2 *Future option change:*
Human rights as the driving force for internal and international action

Xenophobia and racism continue to radicalise in Europe alongside authoritarian political offers. However, their social and political impact is contested and minimised. Migrants and diversity become less of an issue, and the defence of fundamental rights, including equal social rights for all, takes centre stage. Sectors of the labour market based on duality or informal employment are reformed. Reforms are undertaken not in spite of human and social rights, but with them as a driving force.

The utilitarian notion of migration as a means of replenishing the labour force in aging European societies, on the one hand, and as the key to better opportunities for North African and sub-Saharan migrants (and those who remain), on the other, is replaced by a new holistic conception of how to deal with the societies and economies of the future, while including migration and migrants themselves in the equation. Building a more operational rights-based governance system for safe, orderly and regular migration, including border management, becomes a priority.

Economic and social challenges are being addressed. The unity and universality of human rights and respect for international law are seen as instruments to guide internal and international action. They can break the inertia that has linked migration to the cycle of authoritarianism, instability and the erosion of rights throughout this century.

Respect for international law and the protection of human rights are seen as tools for stability and the protection of democracy.

3.
Conclusion and way forward

Given the current political landscape in both regions, the more likely scenario is one of continuity, as we are already entering a phase of normalisation of the segmentation and violation of human rights in both Europe and North Africa. Inertia may lead us to continue down the path of short-term commitments and a focus on borders and control, despite the fact that this cannot be divorced from other policies and cooperation, including migration policies. Breaking this trend and reorienting policies will require new alliances and agreements, which are possible, albeit difficult, to achieve in Europe and the region today. At the same time, both options currently coexist in a state of tension at all levels of government and migration governance. The choices made at any given time and in any given scenario, whether internal or external, will determine whether we pursue a scenario of continuity or of change. What is actually at stake in the current discourse and actions on migration is democracy itself and its central claim to equality, which allows for the protection and effective exercise of human rights, the true universality of the Universal Declaration of Human Rights, and the efficacy of international human rights law in the global order.

Ten Recommendations to help change course

1. Respect international law and the protection of human rights, since they are essential for both stability in the region and the protection of democracy (not the other way around). The unity and universality of human rights and respect for international law should guide internal and international action. This path can break the inertia that, throughout this century, has linked migration to the cycle of authoritarianism, instability and the erosion of rights (both in the EU and in North Africa).

2. Consider Africa-EU migration as a system (within sub-Saharan Africa and to the North), as a central part of the Africa-EU geo-economy. Migration cooperation can't be separated from the main lines of the EU's cooperation strategy with its neighbours or from its intra-regional and Africa strategies. There is a need for more comprehensive and equitable agreements on migration management that take into account the interests of all parties. To achieve them, work with migration dynamics – and with migrants – on both sides of the African-EU migration system. Refrain from allowing authoritarian regimes to continue to thrive within this

migration cooperation; instability and lack of human security is one of the root causes of migration.

3. Align legal migration pathways with this holistic approach based on Africa-EU geo-economics to provide alternatives for those seeking to migrate within the region and to find protection in Europe, and reduce the risks associated with dangerous sea journeys. Identify and address the areas of human rights violations, particularly at borders and in the grey areas of first and second return (transit to country of origin). Accept limitations, do not circumvent compliance with international law in the EU or in third countries. Build resilience and flexibility on the basis of previous EU and national experiences.

4. Focus on achieving a better understanding of international migration, especially bi-regional migration and regional and sub-regional systems. Invest in research to monitor unintended consequences of migration policies and take immediate action to reduce their impact. Develop a holistic approach. Short- and medium-term measures must be combined.

5. Invest in better resilience to migration and asylum and move away from a crisis mode that does not address citizens' concerns, but instead exacerbates them. Within the framework of the Migration Pact, there is room for more dialogue, trust building and cooperation between member states enduring more pressure on their borders and asylum-receiving countries with more refugees.

6. Reduce the prominence migrants and diversity by prioritising the defence of international law and fundamental rights, particularly social rights and international recommendations for migrant workers, within both the EU and North Africa, as well as in interregional economic cooperation.

7. Promote regional cooperation among African states by facilitating dialogue and joint efforts between North African and Central and Southern African states to manage migration more effectively while minimising dependence on European resources (and vice versa). This collaborative approach can help harmonise policies and improve the protection of the rights of migrants and refugees throughout the region.

8. Strengthen human rights frameworks in migration agreements with third countries: this includes ensuring that the treatment of migrants and refugees in third countries is consistent with the principles set out in the Universal Declaration of Human Rights. Conditionality on respect for international law and human rights should be strengthened in EU cooperation guidelines.

9. Forge new alliances within the European Union, in North Africa and Sub-Saharan Africa, and internationally for the international defence of human rights in the international management of displacement and migration, in line with the most operational recommendations of the UN Global Compact for Safe, Orderly and Regular Migration (GCM), promoted and signed by North African states and the majority of the rest of Africa and the EU.

10. Support and fund programmes that aim to reduce xenophobic sentiments towards migrants by publicising the contributions of migrants to society, both in the European Union and in North Africa, and by promoting a more positive narrative on migration. Highlight the role of migrants and refugees and their contribution to local North African economies to enable their integration and inclusion in society. Invest in integration programmes that support the inclusion of migrants. Integration works, it has worked for the vast majority of migrants and citizens of migrant origin in EU host societies. Integration programmes, including language courses, vocational training and cultural orientation, are crucial.

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List of Abbreviations

CEAS	Common European Asylum System
EU	European Union
GCM	Global Compact for Safe, Orderly and Regular Migration
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner on Refugees

About the Authors

Amera Markous is a humanitarian researcher and trainer with over seven years of experience in Libya and North Africa on migration and relief programmes. She holds a master's degree in Humanitarian Action from the University of Geneva, where she won the Swiss Humanitarian Award for her thesis on the impact of EU migration policies on humanitarian programmes, with a focus on the UNHCR and the International Organization for Migration in Libya.

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Time to change course

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In North Africa and Europe, the human rights of migrants are a litmus test for the future of human rights as enshrined in the European Convention on Human Rights and its jurisdictional implementation.

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Migration cooperation can't be separated from the main lines of the EU's cooperation strategy with its neighbours and from its intra-regional and African strategies. There is a need for more comprehensive and equitable agreements on migration management that take into account the interests of all parties.

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The unity and universality of human rights and respect for international law provide an instrument for guiding domestic and international action. They can break the inertia that, since the turn of the millennium, has linked migration to the cycle of authoritarianism, instability and the erosion of rights.

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