

AMNESTY INTERNATIONAL

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AMNESTY INTERNATIONAL: THE GLOBAL COMPACT ON RESPONSIBILITY-SHARING FOR REFUGEES MUST INCLUDE OBJECTIVE CRITERIA TO GUIDE IMPLEMENTATION

A “zero draft” of the outcome document for the 19 September High-level meeting of the United Nations General Assembly (UNGA) to address large movements of refugees and migrants and the draft Global Compact on Responsibility-Sharing for Refugees were made public last week. Amnesty International has reviewed the drafts and is concerned that the important objectives of the September meeting risk remaining empty words unless the outcome document and Global Compact include detailed targets and timelines, criteria to ensure implementation, and an effective monitoring and accountability system.

In particular, for the Global Compact to be a game-changer, it needs to address the failures that led to the current refugee crisis. Amnesty International welcomes the recognition in the current drafts of the centrality of responsibility-sharing within the international refugee protection system and the commitment to an equitable sharing of responsibility for hosting and supporting the world’s refugees (zero draft, para6.v and 6.xii; draft Global Compact, para6-7 and 12). However, without clarity on how to determine the respective responsibility of each country in relation to refugee protection and assistance, the Global Compact risks cementing the existing imbalances between states hosting large numbers of refugees and those not doing enough to host and assist refugees. It is critical that the Global Compact goes beyond short-term, *ad hoc* arrangements and promises – often unfulfilled - at pledging conferences.

RESETTLEMENT AND OTHER ADMISSION PATHWAYS FOR REFUGEES

Amnesty International supports the commitment in both the zero draft outcome document and the draft Global Compact to achieve the target of providing resettlement places and other legal pathways for admission to at least 10% of the total refugee population annually (zero draft para6.xiv, draft Global Compact para23). The organisation joins the call for states who have not yet established resettlement programmes to do so (draft Global Compact para22).

Amnesty International notes the statement that States “will consider ways in which an equitable sharing can be determined, either formally or informally, in specific situations of large-scale movement” (zero draft, para6.v and draft Global Compact, para12). The organization believes this issue is central to addressing the humanitarian crises facing refugees in several contexts, and States must develop specific commitments to enable responsibility sharing in situations of large-scale movement. Criteria which are relevant to the capacity of states to host and support refugees, and which can be applied to all states

(for example, national wealth and population size, as well as factors such as unemployment rates), should be considered as part of a framework for responsibility-sharing.

Amnesty International is calling on states to include in the Global Compact on Responsibility-Sharing for Refugees some objective criteria and a mechanism to enable fair and proportionate refugee responsibility-sharing to be accomplished in practice. The organization calls on member states to provide details in the outcome document about a deadline and specific modalities to achieve the global target of providing resettlement places and other legal pathways for admission to 10% of the total refugee population annually. The organisation is also calling on states who have not yet established resettlement programmes to commit to do so within a year from the 19 September high-level meeting.

PRIMA FACIE DETERMINATION OF REFUGEE STATUS

Where people seeking international protection arrive in large numbers and at a sustained rate, individual determination of their claims for refugee status may become impracticable or ineffective. If most of those arriving can be deemed to be refugees on the basis of objective information related to the circumstances in their country of origin, States should accord refugee status to members of a particular group on a *prima facie* (presumptive) basis.

Amnesty International calls on member states to commit to increase the use of *prima facie* determination of refugee status in situations of large movements of refugees.

GENDER, SEXUALITY AND IDENTITY

Amnesty International is concerned that several references to refugee and migrant women in the zero draft are framed in terms of vulnerability. Unlike children, who are inherently vulnerable because of their age, refugee and migrant women are not inherently vulnerable because of their gender. Rather, they're often targeted for gendered abuses due to gender discrimination.

Amnesty International calls on member states to re-affirm in the outcome document their commitment to protect the rights of refugee women and girls from abuses and exploitation, rather than emphasising their "vulnerabilities". Additionally, they should include in their commitments on gender a reference not only to the gendered abuses suffered by women, but also to those suffered by men and LGBTI people.

COMMITMENTS FOR MIGRANTS

Amnesty International welcomes the renewed commitment to respect, protect and fulfil the human rights of all migrants, regardless of status and without discrimination (para4.ix). In this respect, the organisation recommends that specific attention is paid to the rights of migrant workers who have an irregular status, who often face obstacles to the full enjoyment of their rights.

Amnesty International calls on member states to commit to allow irregular migrants to access the services needed for the enjoyment of their rights without fear of being arrested, detained and deported. In order to do so, states should implement "firewalls" between

essential services and migration enforcement, whereby those public and private actors who provide essential services (healthcare, education, housing, labour inspection, local police) would be instructed not to request migration status information unless essential; and migration enforcement would not have access to the information collected by service providers relating to migration status.

Amnesty International welcomes the commitment to develop opportunities for safe, orderly and regular migration (para4.xviii). **The organization calls on member states to commit to reform or abolish labour migration policies that increase migrant workers' risk of suffering labour exploitation and other abuses at the hands of their employers** (for example, labour migration policies that give the employer control over the migrant worker's residence status; and labour migration policies that tie migrant workers to a specific employer).

Amnesty International welcomes the draft commitment to strengthen the global governance of migration (para4.xi), as the current institutional framework for governing international migration is fragmented and ultimately inadequate for the fulfilment of the human rights of migrants. Amnesty International therefore welcomes plans to integrate the International Organization for Migration (IOM) into the United Nations system, as a way of ensuring that its mandate and activities are fully consistent with the international human rights framework.

COMMITMENTS FOR MIGRANTS AND REFUGEES JOINTLY

Amnesty International is concerned about the reference to detention of asylum-seekers and migrants during the assessment of their legal status, entry and stay (para5.ix). In order not to be arbitrary, arrest and detention of asylum-seekers and migrants, irrespective of status, must be prescribed by law, necessary in the specific circumstances and proportionate to the legitimate aim pursued. Any custodial or non-custodial measure restricting the right to liberty of asylum-seekers and migrants must be exceptional and based on a case-by-case assessment of the personal situation of the individual concerned. Member states can lawfully detain asylum-seekers and migrants only as a last resort, and when it is strictly necessary. They must give preference to less coercive measures, i.e. non-custodial measures, whenever such measures suffice to achieve the objective pursued. However, alternatives to detention must not become alternatives to release, in that alternative measures should not be applied to detain asylum-seekers and migrants who are eligible for unconditional release.

Amnesty International calls on member states to acknowledge that liberty is the first alternative to detention and to commit not to impose measures restricting the right to liberty of asylum-seekers and migrants, either custodial or non-custodial, unless they are lawful, necessary and proportionate.