

1st Consolidated civil society feedback on the zero-draft of the outcome document and the Global Compact on responsibility-sharing for refugees From organizations on the Action Committee¹

7 July 2016

Overall sense

As civil society organizations working on the ground and globally with, for and as refugees, migrants displaced people and diaspora, we welcome the broad scope and extensive reach of the zero-draft of the outcome document. We are also glad to see that the zero-draft reaffirms and is grounded on existing rights, conventions and frameworks, including the nine core human rights conventions, international humanitarian and refugee law, and also the UN 2030 Agenda for Sustainable Development; **these need to be translated into policy, practice and action** at the soonest.

However the zero-draft of the outcome document and the draft Global Compact on Refugee Responsibility-sharing are not enough yet, and risks becoming empty words, if the following concerns are not addressed, as further described below.

1. **Responsibility in action:** The outcome needs to be actionable, and include implementation and accountability mechanisms, resources, and specific time-lines; the zero-draft and the draft Compact lacks this.
2. **Specificity on solutions:** the outcome needs to be specific on the solutions, and how they will be attained, instead of vague references to the upholding of rights and protection; specific needs, rights and response-mechanisms need to be included (e.g., with regards to livelihoods, decent work, health etc.)
3. **Civil society as an essential partner:** it is critical that civil society, and in particular refugees, migrants, displaced persons and diaspora themselves, are at the table every step of the way, informing the plans, helping to monitor progress, and continuing the discussion about how to create a world that protects and provides opportunity to refugees, migrants and societies. This is not sufficiently reflected in the zero-draft.

¹ The consolidation was put together by ICMC on the basis of input of several of members* of the international self-organized [civil society Action Committee](#) for the Summit. It builds upon the "[New deal for refugees, migrants and societies](#)" that the Action Committee published as a set of starting points that a wide diversity of non-governmental organizations believe are important as UN Member States begin negotiating an Outcome Document for the UN General Assembly Summit 19 September 2016 on Addressing Large Movements of Refugees and Migrants.

The full memberships consists of: *Africa-Europe Diaspora Development Platform (ADEPT)*; *Amnesty International*; *Asia Pacific Refugee Rights Network (APRRN)*; *Asylum Access*; *Building and Wood Workers' International (BWI)*; *CARE-International*; *Caritas Internationalis*; *Danish Refugee Council (DRC)*; *Global Coalition on Migration*; *International Catholic Migration Commission (ICMC)*; *International Council of Voluntary Agencies (ICVA)*; *International Detention Coalition (IDC)*; *International Rescue Committee (IRC)*; *Lutheran World Federation (LWF)*; *Migrant Forum in Asia (MFA)*; *NGO Committee on Migration (New York)*; *Norwegian Refugee Council (NRC)*; *Oxfam International*; *Platform for International Cooperation on Undocumented Migrants (PICUM)*; *Save the Children*; *Scalabrini International Migration Network (SIMN)*; *Terre des Hommes*

I. General comments on the zero-draft (what's good, what's concerns us, what's missing)

A. What we feel is already good and essential in the zero-draft, and could be strengthened:

- Ample references and reaffirmations to existing frameworks, including the core Human rights conventions, the 1951 Conventions and protocols, the 2030 Agenda, including the Migrant Workers Convention (and more). However a general sense of “and now what”? What's new, what is specific? When will what happen, who will do it?”
- For example, rights are mentioned 20 times in different places, including referencing that they should be respected regardless of status, which is great, but:
 - it is not made specific what this really means in practice. It needs to be unpacked for it to have meaning (access to health, education, livelihoods, decent work, etc.)
 - they should be elevated to the front of each section
 - states must re-affirm in the Outcome their commitment to protect the rights of refugee and migrants from abuse and exploitation, rather than emphasizing their “vulnerabilities”, including children and women

We strongly welcome:

- **Section 5 that looks at ‘Commitments for migrants and refugees jointly’** and would suggest to put this section first, follow by the specific commitments for migrants and for refugees. And welcome the reference to:
 - rights-sensitive border management procedures/ training—but ask who will do/fund that?
 - search and rescue (v),
 - detention/alternatives to detention/ never detaining children
 - though in Section 5(IX) the language on alternatives to detention should be stronger - we would seek a commitment to prevent detention instead of considering alternatives to it. The Outcome should 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 proportion
 - combatting discrimination (xii), and most of all condemning xenophobia including through direct personal contact (xiv).
 - ensure women's leadership and full and equal participation in the development of local solutions and opportunities
- **Section 6** references to:
 - the Convention,
 - humanitarian principles,
 - non-refoulement
 - complementary pathways
 - resettlement and mention of
 - civil society being a key partner in every region.
- **Glad to see IDPs and stateless** mentioned in the document, even though they are excluded from the title of the Summit. As over 40 million displaced people (IDPs) remain within the borders of their own country, it is absolutely critical for the declaration to address the needs and rights of IDPs.

B. What are our concerns in the zero-draft

1. Responsibility in practice and specificity.

- The document is long, with long lists of principles and vague commitments that don't add up to much responsibility in practice. We would like to see more concrete and clear proposals and what it would require from each State committing to it. The dynamic thread that connects all these efforts must be not a new set of conventions but a new paradigm of joint, coherent commitment and action—by states, with civil society a full and trusted partner and resource.
- The zero draft and the draft Global Compact on Refugee responsibility-sharing lack specificity. The document mostly repeats generic desires and lists other processes. The only exceptions boil down to changing IOM's status (4xi), organizing more meetings/ conferences (4xvi, 4.2, 7), and developing more guidelines (4xiv). "The most exciting initiative" is the SG's xenophobia campaign, but not specific enough, e.g., how resourced, endorsed, animated by states and connected to civil society efforts.
- Need action section with more specifics on- actors, commitments to timelines, benchmarks, resources, ensuring implementation, and an effective monitoring and accountability system
- We need states to come to the Summit with commitments on how they will translate these into national policy and practice, and/or time-bound plans to develop such plans in consultation with women-led civil society groups representing displaced communities after the Summits.
- We had expected the Global Compact on Refugee responsibility sharing to be much more operational, providing a response framework and mechanism for UNHCR and states to call upon in current and future refugee crises.

2. Civil society as essential partner: although Section 6 good: in every region.

- it is critical that civil society be at the table every step of the way, informing the plans, helping to monitor progress, and continuing the discussion about how to create a world that protects and provides opportunity to refugees, migrants and societies – in safety and dignity.
- Zero Draft does call more generally for civil society engagement, including groups of migrants and diaspora in the section on migrants; needs further specify that refugees, migrants and diaspora should be involved every step of the way, and also that they should be able to organize themselves and register CSOs (as in many contexts they are not allowed to and have to work under the radar).
- States' understanding of the role and contributions of civil society should be clear and expectations for their part in delivering on these commitments should be specified
- Processes launched by the Outcome should be led jointly by states and civil society practitioners in explicit partnership with the principal UN agency/ies concerned

3. Insufficient focus on solutions

- Expand on Durable Solutions for refugees. The zero draft focuses on resettlement and has one sentence only on return. This is insufficient. For a meeting and Outcome Document on addressing large refugee movements, solutions need to be discussed up front and the text on solutions needs to be further expanded to reflect knowledge and commitments on solutions, including more on return and local integration.
- Opening of labor markets and 'the right to work': The language on right to work and employment needs to be much stronger. In order to find alternatives to dangerous migration (refugees and other migrants) and solutions to protracted refugee displacement situations, we need not only welcome, but to see commitments from member states to open up labor markets and allow for 'the right to work' for refugee in the country of refugee (6.xix). We need to see commitments in the Outcome Document to strengthen not only host communities' self-

reliance and resilience, but also that of refugees (6.xxi), assisting them, for example, with employment creation and income generation schemes.

- Reform the humanitarian system: the document does not adequately convey the urgent challenge to reform the humanitarian system that is responsible for helping meet the needs and uphold the rights of refugees and vulnerable migrants, including women and girls. Additionally, the Outcome should endorse the Grand Bargain including the commitment to enhance engagement between humanitarian and development actors, as well as the commitment to channel at least 25 percent of all humanitarian funding to local actors as directly as possible by 2020, both of which emerged at the World Humanitarian Summit.
- Address development challenges through the lens of human rights and focus on reducing poverty and inequality, rather than framing these challenges as “drivers of migration” to be addressed in order to restrict migration.

4. Words matter. The zero draft:

- There is a big difference between commitments that begin “We will consider” and those that begin “We will ensure”.
- must delete ‘burden-sharing’ and ‘burdens’ from the Outcome Document and replace with more positive formulations around “responsibility-sharing”
- needs more clear definition and emphasis of responsibility sharing, including:
 - o must uphold the rights of refugees and adequately supports host communities.
 - o in countries of transit (not just origin and destination)
 - o A mechanism for formally determining to ensure a reliable international response
- Refugee contributions: The contrast in positive and negative language and characterizations between migrants and refugees is striking. We are also concerned that migrants are considered as enriching and refugees regarded as a burden.
 - o The document should reflect the contribution made not only by migrants but also by refugees (e.g. par. 1.5), as reported in numerous studies in recent years.
 - o There is no recognition of the skills that refugee communities have and the benefits they can bring to host communities.
 - o discussion of “challenges” should be immediately followed by “opportunities.”
- “Determined to counter irregular, unsafe and unplanned migration.” (5.iv).
 - o We are greatly concerned about what that means and what the “countering” would look like. Irregular migration is authorized under international refugee law for asylum-seekers, who often are unable to migrate through regular channels.
 - o the focus on countering "irregular migration" should not be used as an excuse to close borders (5iv).
- Return and repatriation
 - o The discussion on returns should be careful to always reference rights and voluntariness as appropriate (4xix, 6x).
 - o Voluntary repatriation: the Outcome should make reference to both conditions in the country of origin (calling for an informed decision) and the situation in the country of asylum (permitting a free choice).
 - o The call for voluntary return needs to include language on ensuring that it happens in a dignified manner and is based on the free choice of refugees. Refugee communities also need to be involved and consulted in the entire process.
- Ratification: Fix the inconsistency in the zero draft so that there is a clear “call” (not just encouragement in some cases) for ratification of ILO, Migrant, Refugee and Statelessness Conventions.

5. Coherence:

It is unclear what the difference status is of the zero-draft of the political declaration versus the Global Compact on Refugee responsibility-sharing; also unclear is the scope and status of the

Global Compact on Safe, Orderly and Regular Migration to be development. We are concerned that separate processes and documents are leading to inconsistencies and redundancy

In addition to the five concerns above, what else is missing?

6. **IDPs:** The Summit outcome should launch a process jointly led by states and civil society practitioners process to collect and consolidate rights and practices regarding IDPs under existing international and regional conventions
 7. We are concerned that the first and only mention of **statelessness** in the context of forced displacement and migration is on page 12 of 14, and only one short paragraph. We would like to see an acknowledgement and recognition that **forced migration is both a cause and a consequence of statelessness**, much more prominently in this document. The nexus between forced displacement and exclusion/disenfranchisement/rights abuses cannot be overstated, especially in the context of Asia and the Pacific (see Myanmar as one example).
 8. **Social inclusion:** the only reference is in 5 (xii) “strengthen their inclusion in all spheres of life” and mentioning a range of actors. There is no specific reference to inclusion measures, such as language, schools, work, participation, access to justice, health, welcoming communities, etc. ; where “ensuring that refugees and migrants are welcomed and integrated as part of inclusive societies are the sine-qua-non for an overhaul of refugee and migration policies” (see New deal)
 9. **Regularization programmes:** evidence has proven these are one of the most effective tools in reducing vulnerability and related obstacles to safety, dignity and integration.
 10. Section 6(IX). This call **should go beyond documentation** but also access to rights as a merely having documents does not mean the rights of a person will be guaranteed.
 11. Reference to **sexual and gender-based violence** and other abuses suffered not only by women, but also to men and children
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II. Comments pertaining to specific sections in the zero-draft

Zero-draft section (1) Introduction: it is a little strange that

- the challenges for receiving states are mentioned prominently and first (in 1.3), before the challenges for migrants and refugees themselves are mentioned.
- there is no mention in the introduction or the principles section, that does justice to the role of migrants, refugees, civil society, citizens, the UN system, other actors in addressing the issues

Zero-draft section (4) Commitments for migrants

Global Compact on Safe, Regular and Orderly Migration

- on IOM and global governance of migration (4 (xi.) and 4.2 on the Global Migration Compact):
 - welcome 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
 - Many of us have long advocated for migration itself to be brought more fully under the UN normative framework. In that direction, we call upon both the UN and IOM Member States to ensure, as a condition of this new legal relationship, that IOM takes its work forward squarely within the UN normative framework, with clear and structural increase in its resources, activities and mandate for the protection of migrants of all kinds, everywhere.

- The Outcome needs to set clear timelines and a framework for achieving this Global Compact, with:
 - Appointment of co-facilitators to guide its achievement by 2018.
 - formal inclusion of CS as stakeholders in negotiation process: substantive civil society input, participation, and observation throughout the process.
 - policies anchored in the 2030 Agenda
 - a focus on migration and migrants as contributors to sustainable development where human rights are respected;
 - applicability to individual migrant and regular migrant movements, whether large or small
 - protection of migrants in transit, particularly the most vulnerable populations, especially women and children;
 - support for people at risk of climate displacement, particularly with support for safe and dignified migration.
 - incorporation of MICIC Guidelines, including the dispatching of consular teams to borders
 - effective border management, including
 - shift of focus away from securitization, preventing the necessity of turning to smugglers and traffickers;
 - No detention or criminalization at borders;
 - Greatly augmented legal opportunities for entry, by increasing the number of visas, plus providing opportunities for family reunification, education, and work;
 - benchmarks, implementation and effective monitoring of the Compact, and
 - human rights approach throughout:, including
 - Member States ratification and implementation of the Migrant Worker Convention and relevant ILO Conventions;
 - ensuring the right/option of persons to decide whether to migrate or not;
 - ensuring the rights of migrant workers, especially women migrant workers, to decent work and working conditions

Zero-draft section (5) Commitments for refugees and migrants jointly

Protection of refugees, migrants and displaced people vulnerable on the move and upon arrival

- Suggest to put the joint commitments upfront before the commitments specifically pertaining to migrants and to refugees
- support the expansion of institutional protection for vulnerable migrants.
- Guidelines for vulnerable migrants: as expected these are clearly mentioned as a MICIC/NANSEN-type initiative, great. But there is no time-line, no specific mention of multi-stakeholder involvement or UN-framework, no linking to Global Compact on Migration.
- states should utilize additional mechanisms to extend protection to refugees and vulnerable migrants, including through expanding family reunion
- states must recognize family unity and the right to family life as both the universal rights they are and a proven key for refugee and migrant self-protection, health, self-sufficiency and integration
- the Outcome must stress that under international refugee law irregular migration is authorized for asylum-seekers, who often are unable to migrate through regular channels.
- Consistent needs-first and rights-based responses, with systematic differentiation and referral of refugees and migrants with specific rights to appropriate procedures and service, e.g., refugees and asylum seekers, children, victims of torture, trafficking and trauma

- Summit outcome should launch a process jointly led by states and civil society practitioners to collect and consolidate rights and practices on what “needs-first and rights-based responses” really means, including successful examples of multi-actor differentiation and referral of refugees and migrants with specific rights under existing international conventions
- Must link coherently to Global Compacts on Responsibility-Sharing for refugees and on Safe, Regular and Orderly Migration
- reform or abolish labour migration policies that increase migrant workers’ risk of suffering labour exploitation and other abuses at the hands of their employers
- 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.

Global campaign to counter xenophobia

- Good to emphasize direct personal contact between host communities and refugees and migrants
- Needs strong states endorsement, with detailed and specific plans towards the Summit on how they will themselves implement the campaign (not another UN-centric 'campaign' that doesn't get government support).
- Statistics: it is so important to collect and publicizing accurate statistics that put numbers in an appropriate context. For example, a ‘million migrants into Europe’ sounds scary enough to justify overriding principles. ‘Adding 1 extra European to each existing 750’ probably isn’t. This could be an important step towards actually implementing the principled approach we’d like to see.
- Need focus on inclusion measures, such as language, schools, work, participation, access to justice, health, welcoming communities, etc. ; where “ensuring that refugees and migrants are welcomed and integrated as part of inclusive societies are the sine-qua-non for an overhaul of refugee and migration policies” (see New Deal)

Zero-draft section (6) commitments for refugees

Global Compact on Responsibility-Sharing for Refugees

- It is unclear what the difference is in status and coverage between the political declaration and the Global Compact on responsibility-sharing for refugees, and would have expected the latter to be a much more operational document, providing a response framework and mechanism for UNHCR and states to call upon in current and future refugee movements and crises.
- some objective criteria and a mechanism to enable fair and proportionate refugee responsibility-sharing to be accomplished in practice.
- 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.
- Call for states who have not yet established resettlement programmes to commit to do so within a year from the 19 September high-level meeting. Donor states and resettlement countries with long-standing programmes should provide the necessary technical assistance and support to new resettlement countries to ensure that they are sustainable, include the necessary protection safeguards, and result in good integration outcomes for refugees.

- commit to increase the use of prima facie determination of refugee status in situations of large movements of refugees.
- Re-affirmation of non-refoulement and the right to seek asylum in both policy and practice:
 - o including in agreements with third countries
 - o with safe and legal routes for people – especially vulnerable women and girls – to claim asylum
 - o but underscore that the establishment of safe and legal routes must never be used as justification for undermining the right to claim asylum,.
- strike all references to “burden” - particularly “unfair burden” (1.7) and “enormous burden” (6 xii) - and focus instead on state “responsibility.”
 - o “responsibility sharing” should not become framed in a reductive fashion so that wealthy donor nations effectively fund southern states to contain refugees or accept returns, as exemplified by the current EU-Turkey deal.
- Reception: This section needs to address the importance of preparedness and investment in adequate reception facilities, asylum processes and protection and assistance mechanisms before a crisis erupts, and include concrete commitments on how non-receiving countries will change their approach.
- Ideally we would want to see here a permanent, agreed and funded mechanism (at the international, regional and national levels) for resettlement (internationally) and integration (nationally) rather than considering what format it can take.
- There seems to be no commitment in this document to develop national laws and asylum systems where they are absent, that are in line with international standards.
- Realizing that developing a more detailed roadmap is not feasible in the time remaining before the Summit (and recognizing the politically fragile moment that we are in), we suggest a Compact which is seen as an initial agreement, with language built in which commits to a further process (post-Summit) to establish a more specific Plan of Action. The Compact would need to propose a time-bound process to develop this Plan of Action, which we envisage to (i) Define new directions/areas of work (referencing WHS commitments such as collective outcomes; Grand Bargain; ‘Commitment to Action’; (ii) define specific/measurable new goals and objectives; evaluate current gaps (resources, technical, doctrinal) to achieve them; and (iii) serve as a tool for mobilizing donor support and civil society engagement around specific initiatives or actions.
- Creating a new section on Humanitarian/Development Collaboration: We would suggest consolidating all of the various references to Humanitarian/Development Coordination in its own section of the document in order to highlight and strengthen this as a core area for member states to agree on. This would include consolidating language on bridging the humanitarian/development divide from paras 9, 10, 12 and 14. In addition, we feel that the Commitment to Action should be referenced.

Zero-draft section (7) Follow-up and review of our commitments

- The zero draft proposes to review progress in 2030 Implementation context / the High Level Political Forum, which makes sense but seems rather toothless – what else can we propose?? HRC-framework and country-profiles (etc.)? A bigger role for IOM with a protection mandate?