

2nd Consolidated civil society feedback on the 2nd-draft of the outcome document and the Global Compact on refugees

From organizations on the Action Committee¹

20 July 2016

General feedback

As civil society organizations working on the ground and globally with, for and as refugees, migrants displaced people and diaspora, we welcome that the second draft of the outcome document has maintained its broad scope and extensive reach. However the Outcome document and the Global Compact on Refugees are not enough yet and risk becoming a missed opportunity to step up the protection and empowerment of refugees and migrants and responsibility-sharing, and truly change realities for refugees, migrants and societies on the ground.

The 2nd draft of the Declarations prompts us to put forth 6 priority messages:

- A. Reaffirming not undermining existing frameworks and rights.** We are glad to see the draft Outcome 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 reaffirmations need to stay in the document and be translated into policy, practice and action at the soonest. It is imperative that nothing in the political Declaration and the global Compact undermines existing standards and principles regarding migrant and refugee protection.
- B. We are all right-holders.** The Outcome needs to be more consistent in reaffirming that all migrants and refugees, regardless of their status, are rights holders (in order to avoid the implication that just refugees are entitled to protection).
- C. Responsibility in action:** The Outcome needs to be actionable, and include implementation and accountability mechanisms, resources, and specific time-lines; the second-draft and the draft Compact do not have enough of this at all.
- D. 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.)
- E. Roadmap:** we urge Member States to commit in the Outcome document to adopt an all-stakeholder roadmap for the Global Compact on Safe, Regular Migration; the Compact should be developed by no later than 2018.

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*

However, without waiting for this Roadmap, Member States should commit in the political Declaration and act NOW to save lives, stop detaining children, provide regular and safe pathways for refugees and migrants with full rights, labour protection and decent work, and ensure family unity. Commitments to that effect need to be maintained and strengthened in the outcome document.

- F. Civil society.** Furthermore we urge member states to include in section one, and across the Declaration commitments to engage civil society, including migrants, refugees and diaspora directly and meaningfully in all discussion, decision-making and solutions, from inception to implementation. Civil society and human rights defenders of refugees and migrants should be encouraged in their work, and protected where needed.

Below you will find a consolidation of feedback per section. Suggestions for text edits in tracks will be submitted to the co-facilitators, and are available upon request.

1. Defining the challenge

- a. **The title ‘defining the challenges’ of the first section does not do justice to the section itself**, and sets a negative tone as if issues related to migrants and refugees are to be seen as challenges only. We suggest you change this back to a more neutral title for example “preamble”, since the section lists a number of reaffirmation and principles that would be appropriate. However we also wish to see that political declaration in itself would carry *a more aspirational title* that expressed in simple language the political will of Member States to make a change on how the international community welcomes and deals with refugees and migrants.
- b. **1.3: “distinct categories of persons”?** We are very concerned about the wording in 1.3 referring to refugees and migrants as distinct categories or persons, and distinct legal frameworks. First and foremost they are human beings and rights-holders: a range of widely international rights conventions and standards exist and are applicable to all migrants, regardless of their motivation for migrating, their circumstance or any particular immigration status. Further, some migrants have additional rights—under other international and regional conventions and treaties, also widely ratified—which arise from their particular characteristics, e.g., refugees and asylum-seekers, children, victims of torture or human trafficking. Our experience on the ground and at the front lines is crystal clear: people do not travel in these separate categories—but rather mixed, especially in large movements, and further, many go from one status to another while in transit or in a destination country.
- c. **1.3 regular flows:** We are baffled that 1.3. states that the Summit and political declaration “*does not cover regular flows of migrants from one country to another*” and propose leaving this phrase out. For isn’t regular migration precisely what the Outcome is proposing as one big part of the solution? Even at that, we further know from the ground and front-lines that regular flows are not automatically safe, and can leave migrants vulnerable too. Additionally the question of combatting xenophobia and social inclusion is relevant for all migrants and members of their families—including citizens and others in who have migrated regularly or are in regular status.
- d. **Commitments to social inclusion and against xenophobia and racism:** 1.11 proposes commitments to a range of steps to counter hate speech and racial violence and the implementation of a UN-campaign. Civil society worldwide feels so strongly about this that we propose to put this back either in section 2—with very high profile, e.g., like the Compacts—or create a separate section for the social inclusion and against xenophobia, also to strengthen the emphasis and language in 2.13. (see section 2 below)

2. Commitment to refugees and migrants

- a. **Commitment to save lives.** Propose the commitment in 1.9 to (also) go into this section “*We are determined, first and foremost, to save lives. We will combat with all the means at our disposal the abuses and exploitation suffered by countless refugees and migrants in vulnerable situations.*”

- b. **Special protection and non-refoulement.** Special protection for migrants and refugees (such as children, victims of trafficking) should be carefully reiterated in sections about—and that link—return and non-refoulement.
- c. **Irregular migration and asylum:** Irregular migration is authorized under international refugee law for asylum-seekers, who often are unable to migrate through regular channels. This needs to be acknowledged in the Outcome document. We suggest adding the following words to the second sentence of 4.3: “, recognizing that irregular migration is sometimes the only option for refugees, asylum seekers and other forcibly displaced persons.”
- d. **Firewalls:** states should commit to allow irregular migrants to access the public services (healthcare, education, housing, labour inspection, local police) needed for the protection of their human rights without fear of being arrested, detained and deported.
- e. **2.13 xenophobia and inclusion:** as indicated earlier, we suggest bringing 1.11 back in this section, or creating a separate section on social inclusion and xenophobia. And provide more details on:
 - a. **policies to address racism** and xenophobia and hold perpetrators of racist and xenophobic crimes accountable
 - b. **policies to ensure inclusion:** include social, economic and political inclusion, and measures relates to language training, education, labour market, participation, access to justice, health, etc.
 - c. **Campaigns.** We should encourage the global campaign to include a focus on terminology which specifically offers opportunities – starting with the media (including progressive media), politicians, policy makers and the general public to use responsible and non-stigmatizing language when referring to migrants, including by not using “illegal” when referring to migrants or migration, Also campaigns need to be endorsed by states, resourced, have longevity and leadership, and must be localized, and both animated by and connected to civil society efforts.
- f. **Detention.** We seek to strengthen the language to commit to prevent detention instead of considering alternatives to it - 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. A commitment needs to be made never to detain children.

3. Commitments to migrants

- a. **Roadmap for Global Compact on safe, orderly and regular migration as annex: We propose that the political declaration will include an all-stakeholder Roadmap for the development of a Global Compact on safe, orderly and regular migration, possibly as an annex to the declaration.**

This Roadmap should link to the implementation of Goal 10 (7) of the 2030 Agenda for Sustainable Development and to the development of guiding norms and commitments for the protection of migrants in vulnerable situations. Grounded within the UN framework, this process should be led jointly by states and civil society practitioners in explicit partnership with the International Organization for Migration (IOM), and other agencies including the International Labor Organization, OHCHR, UNHCR and UNICEF, local authorities, refugees, migrants and the diaspora. It should include regional consultation, be time-limited and lead to the adoption of the Global Compact at an international migration conference in 2018, with the aim of changing and improving the global governance of migration. This should also include the integration of IOM into the UN-system with a mandate of protection.

The Roadmap should also include the appointment of co-facilitators to draft the Compact, and include thematic areas to be covered (*see New Deal Section 3 on thematic elements proposed by civil society organizations*)

- b. **Regularization.** We welcome the Outcome document's reference to a number of regular channels for migration – including labor migration across skills levels, resettlement, and family reunification as key ones – but it should also refer to regularization programmes. Evidence has proven that such regularization is one of the most effective tools in reducing vulnerability and related obstacles to safety, dignity, integration and social cohesion. Therefore we urge Member States to add this to the Outcome document.
- c. **Guidelines for vulnerable migrants/Guidelines for migrants in vulnerable situations (3.6 and 3.10):** there is no time-line, no specific mention of meaningful multi-stakeholder involvement or UN-framework, no linking to the Global Compacts: this must be fixed coherently. We also urge greater care to be clear—in this section and throughout the Outcome document (perhaps by way of an explicit preambular reference?) that the guidelines and similar concerns in the Compacts, etc., apply both to migrants who are in vulnerable situations and also migrants who are not necessarily in a vulnerable situation but are vulnerable *in se* (e.g., victims of torture or trauma, young children, older persons and people with serious health concerns.)
- d. **Governance:** in reference to the International Organization for Migration (IOM) being brought into a closer legal and working relationship with the United Nations. 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, everywhere; and for this to be part of the Global Compact on migration. At the same time Member States need to ensure that other UN agencies with specific mandates to work on migration, migrants, and migrant rights will be able to continue this work both coherently in light of this new institutional reality and with adequate resources.

4. Commitments to Refugees & Global Compact on Refugees

- a. **The Outcome must seize the opportunity to realize responsibility sharing for refugees in practice:** address the shortcoming of the current approach to displacement by committing to a system that uses relevant, objective criteria to identify what Member States' fair share looks like, and when a comprehensive refugee response framework will be applied to existing and future refugee movements and protracted refugee situations.
- b. **An operational framework for comprehensive refugee responses and equitable responsibility sharing** should be further elaborated.
- c. **Existing standards:** Ensure that nothing in the political Declaration and the global Compact undermines existing standards and principles regarding refugee protection.
- d. **Durable solutions:** the durable solutions in the Global Compact should list and use the terminology of the three existing and agreed durable solutions: voluntary return, integration and resettlement
 - **On voluntary return** include reference to the conditions in the country of origin (calling for an informed decision) and the situation in the country of asylum (permitting a free choice) as per the UNHCR Handbook
- e. The **section on resettlement** must distinguish between the resettlement as a pathway to protection for vulnerable refugees identified as per UNHCR vulnerability criteria, and other safe and legal routes to protection.

5. Follow up and review of our commitments

[see track changes]

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