

**United Nations Interactive Multistakeholder Hearing on Large Movements of Migrants and Refugees, New York  
18 July 2016**

Michele LeVoy, Director, PICUM  
Platform for International Cooperation on Undocumented Migrants

## **1. Intro**

- Starting point for our discussion today, on the 19 of Sept., and going forward, is that all people who are forced to move are on a continuum.
- This continuum starts (and also remains) for many when they are internally displaced within their own countries, and in need of enhanced protection.
- This continuum includes migrants in large movements who are not refugees as defined by the 1951 Refugee Convention but who have been subjected to discrimination or violence, are marginalized, unable to realize their human rights, and at risk of harm.
- Movement is rarely “voluntary” when refugees fleeing persecution and conflict travel together with migrants fleeing poverty and discrimination.
- As the UN High Commissioner for Human Rights has stated, there are not two different kinds of people, “deserving” and “undeserving” – everyone has inherent human rights, both refugees as well as migrants.
- The nine core international human rights treaties, international refugee and humanitarian law, international labor law and international criminal law standards are the cornerstone for our discussions today, on the 19 Sept. and going forward.
- We urge states that have not ratified the relevant instruments to do so – as well as, and in some cases most importantly, to focus on their implementation.

## **2. Reframing of narrative**

- Summit is a historical moment to open up the discussion, to change and offer a new narrative and framing on migrants and refugees.
- The strong wording in Paragraph 1.11 of the 1<sup>st</sup> revision of the Outcome document (dated 12 July 2016 – “Second draft document”), states “we declare all manifestations of xenophobia, racial discrimination, and intolerance directed at refugees and migrants to be utterly unacceptable.”
- It is expected that the Secretary General’s proposal for a UN-led campaign on this issue will be worked out more in detail after 19 Sept.
- We should stress during this process the issue of accountability of perpetrators of racist and xenophobic hate speech and crimes – this will be crucial for ensuring

peaceful and cohesive societies if migrants and refugees see that strong messages are sent in this respect.

- However, what about the perhaps “less visible” or “less obvious” policies which criminalize migrants and migration, and which are also fueling racism and xenophobia?
- Penalizing assistance of human rights defenders of migrants and refugees – punishing civil society who help undocumented migrants to find shelter, and other humanitarian assistance.
- This is not referred to in the text but is a growing trend in some parts of the world, especially now within the context of large movements and in countries that have not traditionally had a presence of migrants and refugees.
- Criminalization through language – also not referred to in the outcome document, but would be good to specifically refer to the 1975 UN General Assembly Resolution 3449 which requests UN bodies to use “irregular” and “undocumented” when referring to migrants.
- We should encourage a global campaign 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.
- Criminalization through detention - In paragraph 2.10 of the 12 July version of the outcome document, there is a strong reference: “We commit never to detain children.”
- This strong wording follows on the [recommendations by the UN Committee of the Rights of the Child, which found in its 2012 DGD](#) that detention of children is always a child rights violation, and never in a child’s best interest.
- In the past 5 years, nearly 10 UN human rights bodies, special procedures mechanisms, and regional governments have all heeded the call from the CRC to prioritize child rights by making strong recommendations on ending detention of children.
- We must ensure that child rights standards are met through this language and reference in the text.
- Child protection systems should exist at every stage of the migration route.

### **3. Strengthening references in the outcome document**

- Women are referred to throughout the 12 July version of the outcome document – in sections referring to promoting gender equality, empowerment of women, combating sexual and gender-based violence, tackling multiple and intersecting forms of discrimination.

- Yet we must be attentive to measures to weaken any references that would enable states to reaffirm their commitments to ensuring specific protections for migrant and refugee women.
- In the Zero draft of the outcome document, (which is now Paragraph 2.7 in the 12 July version), when referring to women's potential exposure to discrimination and sexual and physical abuse, violence and exploitation, there was a sentence that read "We will develop additional guidance for their protection, regardless of status."
- Unfortunately, this sentence is no longer present in the July 12 version of the outcome document.
- This sentence in the Zero draft was an incarnation of the "firewall" principle, which is outlined in the Secretary General's Report.
- The firewall is a clear separation between public services and the justice system and the penal and immigration authorities.
- In the case of undocumented women who experience gender-based violence, if there is no firewall in place, they cannot go to the police for protection; they usually cannot get access to women's shelters; and often they even cannot go to the hospital for immediate health care.
- It is very welcome in the text that mention is made in several places about protection towards migrants, regardless of status, but if this is not strengthened by how this protection could actually be given (such as explicitly through the firewall principle), it loses opportunities to really demonstrate how to do this in practice.
- Undocumented migrants – are visibly absent in the opening paragraph 1.4 of the outcome document when referring to the numbers of migrants worldwide, refugees, and IDPs – most likely because there are not concrete data as in the other cases.
- Yet the most recent global estimate of irregular migration – according to the [UNODC from its 2010 report](#) – suggests that there are at least 50 million irregular migrants worldwide.
- Undocumented migrants should not only be seen from the "migration" side of this process, since many apply for asylum, are not granted protection, yet are subsequently not returned to their countries of origin nor given any status in the destination country.
- In the EU today, roughly 40% of new asylum seekers are not given refugee status. However, not all are returned to their countries of origin, and become undocumented.
- Many refugees also receive temporary status and later also become undocumented.
- The outcome document welcomingly refers to a number of regular channels for migration – including labor migration across skills levels, resettlement, and family reunification as key ones – but does not refer to regularization.
- [Research](#) in the EU has found that most EU member states in the past 25 years have

at one point undertaken regularization programs or have mechanisms in their legislation.

- Regularization is an ongoing policy mechanism that could feature in the document.
- SDG target refers to “safe, orderly, regular and responsible” migration.
- In paragraph 2.6 of the 12 July outcome document, it refers to “profound concern about lives lost at sea, increase for search and rescue mechanisms; also refers to support for rescue efforts over land, along dangerous or isolated routes.”
- Yet according to the IOM, more than 60,000 people have died in the past two decades while trying to migrate worldwide – and these are only the recorded deaths.
- Going forward, how will we start to account for deaths – and also more generally – to inform policy discussions with more concrete data and figures?
- How will we capture:
  - Deaths during deportation
  - Deaths because of deportation (e.g. to danger or lack of health care in countries of origin for seriously ill people)
  - Deaths in detention
  - Deaths due to working conditions, abuse, racist violence

#### **4. Going forward**

- It is crucial that in various parts of the text, mentions are made of civil society. Civil society – including migrants, refugees, as well as trade unions – need to be part of the discussion and solutions, from inception to implementation.
- Civil society has been meeting yesterday and intensively in previous months and is concerned that the refugee compact will uphold the highest standards for refugee protection, even at the fast pace at which this is developing.
- Concerning the migration compact, civil society is a key actor to be involved in developing a roadmap from September in a two-year process which may involve multiple UN agencies and states.
- We also emphasize that civil society should be well represented from the global south, as well as trade unions – playing a key role in the world of work.
- We look forward to an inclusive process towards September and onwards, also welcoming the use of video statements for those who cannot travel, and look forward to see how civil society can work together in achieving the noble agenda that is set out for us today.