

Initial Elements for the Outcome Document to the United Nations General Assembly Summit for Large Movements of Refugees and Migrants (Sept. 19)

The Women in Migration Network (WIMN) welcomes the initiative of the UN Secretary General, the President of the General Assembly and the Permanent Representatives to the UN from Ireland and Jordan as Co-Chairs, to address large movements of refugees and migrants.

We urge states to reject the binary framing of refugee or migrant within these large movements, recognising lived experience is not ordered or defined by these pre-determined categories. There are many migrants in these large movements who are not refugees as defined by the 1951 Refugee Convention but have been subjected to discrimination or violence, or are marginalised, unable to realise their human rights, and at risk of harm. They may face no more options than the refugee who is fleeing a “well-founded fear of persecution”. We call on states to reject entirely the idea that migrants (including but not limited to those in large flows) are less deserving than refugees. In addition to ignoring states’ structural need for and benefit from migration, this has fueled the demonisation of foreigners and strengthened racist and xenophobic movements.

We call on states to recognise that we need a long-term commitment to increasing equality between and within states. This needs to be central to any programme of work to address the multiple drivers of these large movements of refugees and other migrants, and must also include work such as sustainable development, disaster risk reduction, peacebuilding, and addressing climate change.¹

1. All migrants have all human rights.² We urge states that have not yet ratified relevant international human rights law, international refugee law, international humanitarian law, international labour law, and international criminal law standards to do so.³

¹ "Sustainable development recognizes that eradicating poverty in all its forms and dimensions, combating inequality within and among countries, preserving the planet, creating sustained, inclusive and sustainable economic growth and fostering social inclusion are linked to each other and are interdependent." (p. 5, A/RES/70/1)

² According to the international bill of rights – Universal Declaration of Human Rights, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) – there are only two rights that may not apply to non-nationals, and then only in limited circumstances: political participation (ICCPR Article 25) and freedom of movement (ICCPR Article 12 – though the Human Rights Council has made clear that this limitation may not apply in certain circumstances such as when considerations of non-discrimination, prohibition of inhuman treatment, or respect for family life arise, see General Comment 15.)

³ These include: the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, the 1954 Convention relating to the Status of Stateless Persons, the Convention on the Reduction of Statelessness 1961, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Elimination of all Forms of Discrimination Against Women (and General Recommendations #26 and 32), the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial

2. Take all possible efforts to save lives, respecting the inherent humanity and dignity of refugees and other migrants. Ensure that those providing rescue and assistance are adequately resourced and trained, including in working with survivors of sexual and gender-based violence, and that no one faces criminalisation for assisting those in need. Take immediate steps to provide protection necessary for human rights defenders working with refugees and other migrants to carry out their work freely and without fear of attacks or harassment.

3. Address the causes of large movements of refugees and other migrants including global economic policy, violent conflict, poverty, inequality, gender-based violence, climate change, disasters and environmental degradation.

4. Provide more opportunities for refugees and other migrants to cross borders and work in host (and transit) states by creating ample avenues for regular migration.

5. End the militarised responses to large movements of refugees and other migrants at all levels. Recognize that smuggling saves lives and is not, in itself, a human rights violation – but that increased border security creates conditions for unscrupulous actors who violate migrants' rights. Rather than criminalising refugees, migrants and smugglers, create regular channels for migration. Follow OHCHR's *Recommended Principles and Guidelines on Human Rights at International Borders*.

6. Ensure there is adequate training and resources in place to identify refugees and trafficked persons within these large movements and ensure they have access to the assistance they need. Assistance to trafficked persons must never be dependent on their cooperation with criminal proceedings. Follow OHCHR's *Recommended Principles and Guidelines on Human Rights and Human Trafficking*.

7. Ensure that humanitarian assistance is gender-sensitive and that women and girls in these large movements are provided with safe, secured spaces.

8. End immigration detention, starting with a commitment not to detain children, pregnant women or families. The criminalisation and detention of migrants is a form of violence that violates migrant and refugee rights and often benefits private actors. There is never *any* situation in which children should be detained.

9. Condemn all forms of discrimination. Recognize unique ways that women migrants and refugees as well as second and third generations born in destination countries, may be targeted due to multiple forms of discrimination. Denounce stereotyping and racial and religious profiling by countering xenophobic and racist reaction in the media and political commentary and holding perpetrators of hate crimes accountable. Stop instrumentalising incidents or fears of violence against women nationals to promote a racist agenda.

10. Take all steps to prevent gender-based violence, particularly against women and girls, without introducing measures that limit enjoyment of their human rights. Migrant and refugee women are disproportionately exposed to multiple and intersecting risks of violence – including as women, as migrants, as precarious workers, due to religion, dependent migratory status, sexual orientation or gender identity, and in many instances as black women, women of colour, indigenous women and women from the global South. Guarantee access to justice for migrant and refugee women.

11. Support family reunification, recognising that various forms of family exist, and ensuring that women's migration status is not dependent on a spouse or a single employer. Ensure that determination of eligibility for family reunification does not discriminate against women in law or in practice.

12. Ensure all individuals in large movements of refugees and other migrants as well as all nationals have access to the same health services enjoyed by citizens including for sexual reproductive health; the right to work and make a livelihood; and access to quality education, safe and affordable water and sanitation as afforded to all who live in the country. The state must ensure adequate firewalls in place to enable migrants to access public services regardless of status.

13. Guarantee the right to decent work and labour rights for women migrants, regardless of migration status, and ensure they are protected under national labour laws, consistent with ILO international labor standards, including the right to organize and collectively bargain. Extend to refugee women the right to work in destination countries without loss of protection status. Develop avenues for low-wage workers to obtain visas, with visa portability and the right to change employers, fostering alternative opportunities to migrate other than temporary work, with opportunities for long-term immigration status, family reunification and access to citizenship.

14. Promote migrants as a benefit to society, strengthening the vitality of both their host States and States of origin in multiple ways, rather than as a burden. Commitment to assume "shared responsibility" for protecting the human rights of migrants and refugees, including economic, social and cultural rights.

15. Go beyond the focus on "safe, orderly and regular" migration which is inadequate to addressing the realities of these large movements. The Global Compact on Migration must address *all* migrants' rights regardless of status. Moreover, it must build on states' existing obligations under the international human rights framework. Support the development of the OHCHR's draft *Principles on the human rights protection of migrants in irregular and vulnerable situations and in large and/or mixed movements*. Ensure these processes, including the international meeting on migration in 2018, offers genuine engagement with civil society, particularly organizations of migrants and migrant women, and trade unions. Any future agreements must include clear mechanisms for accountability and implementation of commitments made by member states.

16. Reaffirm that human mobility is a key factor for sustainable development and that realisation of Agenda 2030, including the SDGs, is necessary to addressing any future large movements of refugees and other migrants. Take measurable steps to fulfill the SDGs in order to enable people the choice to remain at home, recognizing that development is not possible without a gender perspective and without addressing the intersection of exclusions.

17. Guarantee the *meaningful* participation of women in migration and gender-specific analyses at all stages of the formulation of migration policies and programme development and implementation. Ensure policy coherence in migration and development, labour and related policies.

18. Improve data-collection at the national and global level ensuring it is disaggregated by gender, race/ethnicity, age and migratory status (where such information does not jeopardize migrants), and other categories, to inform policy. Address the intrinsic gender biases in measurement that yields bad data and the lack of data on critical dimensions of women migrants' lives. Data, research, education, funding and legislation should prioritize the interests of diverse women and families affected by migration around the world.

19. Any migration entity established within the UN must have a mandate centred on protecting migrants' rights and be fully compliant with the UN normative framework. It must be committed to accountability and transparency, including through the full and open participation of civil society. It must work closely with UN agencies to coordinate and advance the specific migration-related goals within their particular mandates.

20. Commitments of shared global responsibility must acknowledge the need for cooperation between all states, without distinction by nationality or countries of origin, transit or destination. As most refugees and migrants move between countries of the global South, we emphasize that *all* states and regional groupings have obligations to uphold their international commitments to ensure the protection and fundamental rights of all, regardless of migratory status. Attention to refugees and displaced peoples must be reflected in national SDG plans and UN mechanisms, indicators and plans of action.

21. Recognise that states have varied resources and capacities to respond to the needs and challenges of refugee and other migrant flows, and thus commitments must account for such differences. Nonetheless, *all* states have an obligation to fulfill international refugee and human rights law. Member states must maintain aid commitments to implement Agenda 2030 while addressing recent influxes of migrants, rather than trading one for the other. Developed nations should not attempt to "buy" their way out of obligations to migrants and refugees or outsource their borders, as it fundamentally threatens the international refugee protection regime and the rights of all peoples regardless of migratory status.