



# General Assembly

Distr.: General  
18 June 2019

English only

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## Human Rights Council

### Forty-first session

24 June–12 July 2019

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Joint written statement\* submitted by New Humanity, a non-governmental organization in general consultative status, Associazione Comunita Papa Giovanni XXIII, American Association of Jurists, Company of the Daughters of Charity of St. Vincent de Paul, International Confederation of the Society of St. Vincent de Paul, International Volunteerism Organization for Women, Education and Development - VIDES, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Teresian Association, World Union of Catholic Women's Organizations, non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2019]

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\* Issued as received, in the language(s) of submission only.



## Migration and Criminalization of Solidarity

The contemporary policy crisis about the management of migrants and refugees poses many challenges to our contemporary societies, arisen mainly from the emergency and security approach adopted in dealing with migration and the subsequent dramatic shift in the public opinion. This turn derives from the distorted perception transmitted by some media and politicians, upon the influence of populist ideology and racist rhetoric, sending “the message that migrants have neither rights, nor a place in society”.<sup>1</sup> As the Special Rapporteur on the human rights of migrants, Mr Morales stated, “Blaming migrants is an easy way for political leaders to gather support from nationals, exploiting and exacerbating sentiments of discrimination and xenophobia. In the absence of substantive public policies to address economic and social problems at home, migrants become an easy target”.

Population movements towards developed countries have been steadily increasing over time. However, the destination countries have not been able to deal with this fundamental and intrinsic part of the human condition in a spirit of solidarity. The restrictive migration policies put in place contributed to exacerbating migrants’ vulnerabilities, endangering their right to life, and tacitly favouring irregular migration and increasing trafficking in persons, instead of combating it. Furthermore, the lack of an adequate regulatory system based on a long-term view creates “an atmosphere of chaos and disorganization”, fostering a negative and distorted perception of migration and the consequent dehumanization of migrants and refugees.

In accordance with the latest report of the Independent Expert on human rights and international solidarity, the aim of this statement is to highlight the alarming criminalization of individuals, communities or groups, “who show solidarity to migrants”. In fact, although civil society organizations continue to provide crucial support for newcomers, human rights activists are increasingly under attack. Non-governmental organizations have become the target of toxic campaigns aiming to delegitimize their activities and deny the humanitarian nature of their acts.

In this historical moment, it is increasingly important to acknowledge the key role of organizations and individuals in welcoming and integrating migrants, since they seem to be the only ones willing to respect the human rights of this stranded people, often taking a more progressive stance than national governments. In fact, as the Independent Expert on human rights and international solidarity, Mr Okafor, noted, “Some of the most important positive expressions of human rights-based international solidarity in the global migration context can be observed in the customary practices of certain progressive civil society groups around the world”.

For this reason, we want to stress and restate that irregular migration is not a crime<sup>2</sup> nor are criminals those who act in a spirit of solidarity, unity and humanity. These civil society actors facilitate and promote the enjoyment of human rights of migrants and therefore their practices should be seen as positive and not as operating with a hidden agenda or political aims. Their actions are not for personal interest but for a sense of justice and cooperation that must always distinguish us as free men and women.

What we are witnessing in a country such as Italy, and in wider terms, all around the world, is criminalization being emphasized over a rights-based approach. There is an on-going over-criminalization of those involved in rescuing or assisting migrants, in the Mediterranean Sea as well as along physical borders, such as in the case of the Italy-France border. However, we confidently affirm that human rights issues at stake cannot be further neglected: rescue at sea, in deserts and in mountainous regions must be ensured, as well as

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<sup>1</sup> *Refugees and other migrants do not lose their rights by crossing borders*, OHCHR, June 2018.

<sup>2</sup> “Criminalizing illegal entry into a country exceeds the legitimate interest of States to control and regulate irregular immigration and leads to unnecessary detention” (Working Group on Arbitrary Detention, A/HRC/7/4, para. 53).

democratic principles and the foundations of law and rights against an arbitrary use of power.

Italy had a tradition of welcoming and rescuing from the sea migrants and refugees but its present government is now leading a war against civil society ships, which are the only actors who insist on trying to defend the dignity of human life and the rule of law in the midst of the sea. We, as Catholic-inspired NGOs, are here for the same reason, trying to defend the central core of our values as human beings. As Pope Francis repeatedly affirmed, the problems of migration would never be resolved by physical barriers but instead they require social justice and correcting the world's economic imbalances.<sup>3</sup> On account of this, wealthy countries should strive to eliminate the root causes of migration such as poverty, war and political instability, and not just continuing talks about groundless "help them at home" policies.

Nowadays, we are once again witnessing a distortion of the international law of the sea, whose principles are literally turned upside down to hinder the rescue of lives at sea and deny respect for the dignity of the person. Too often the human rights of those who leave their countries, whatever their migratory status, are not respected, while "People in transit - whether refugees, asylum seekers or migrants - are entitled to protection. International law requires that assistance be rendered to "any person found at sea in danger of being lost". Border and maritime policies, including disembarkation protocols, should conform with human rights standards and with the humanitarian imperative to rescue first and ask questions later".<sup>4</sup>

Secondly, terminology and the use of language are pivotal in shaping thoughts. "Taxi-boats", "#closedports", "the free ride is over" are just few of the defamatory accusations used to discredit the reputation and the work of humanitarian actors. "Illegal" migrants do not exist and "the overarching political discourse that posits irregular migration within the realm of criminality and security, reiterated by European Union member States, has further legitimated practices of externalization of border control through mechanisms such as migration detention, "pushbacks" and "readmissions."<sup>5</sup> Very often, false numbers about deaths at sea are given, once again outraging these lives, and creating misconceptions about real facts and figures, with an attitude based on a continuing election campaign that puts the weakest and more vulnerable' skins at stake.

For all these reasons, the aim of our contribution is to let the cry of the poor be heard by member States, bringing the voice and the experience of those individuals and groups, especially human rights defenders, who are at the forefront in the expression of solidarity towards migrants and are prosecuted for providing this aid. We want to demonstrate that another present and another future are possible, promoting the examples of existing best practices, especially those adopted by some faith-based actors in Italy in relation to the concrete possibilities of welcoming migrants and integrating them in the social fabric. In this historical moment, it is imperative to take the necessary steps to foster and share good practices and not to let space for the current regressive trends.

Finally, as higher levels of international migration should be expected in the future, in the short-term we should seek to shape migration by providing legal channels that can optimise the benefits this phenomenon brings, in accordance with international law and international human rights law. The only possible solution is the creation of safe pathways for migration. "Sealing international borders is impossible, and migrants will continue arriving despite all efforts to stop them".<sup>6</sup>

<sup>3</sup> Pullella, P., A. Eljechimi, "'Wound' of migration not solved by physical barriers, pope says", Reuters, 30/03/2019, <https://af.reuters.com/article/worldNews/idAFKCN1RB0GG?feedType=RSS&feedName=worldNews>.

<sup>4</sup> Report of the Secretary-General "In safety and dignity: addressing large movements of refugees and migrants" (2016) GA A/70/59.

<sup>5</sup> Statement by the UN Special Rapporteur on the human rights of migrants, François Crépeau, PGA Plenary Session – Criminalization of Migrants, 2/10/2013.

<sup>6</sup> Statement by the UN Special Rapporteur on the human rights of migrants, "Migrant smuggling is

The narrative on migrants and refugees has to shift now, from one based on fear to a positive narrative based on evidence and shared values of human rights, solidarity and empathy. If we really are a human family we have to build bridges instead of walls, as in the words of Pope Francis, “Builders of walls, be they made of razor wire or bricks, will end up becoming prisoners of the walls they build”.<sup>7</sup>

A more comprehensive international solidarity based on human rights principles is the only powerful tool to address the challenges and opportunities presented by international migration. Acknowledging their interdependence, States should adopt a global perspective, developing collective solutions through the widest international cooperation. Nevertheless, the creation of global partnerships is not enough. States should act according to the principle of preventive solidarity, addressing the root causes of human mobility, such as poverty, conflict, instability and climate change, in order to implement effective measures and find durable solutions. Moreover, given that international solidarity is not limited to the action of States, a multilevel governance and effective cooperation among different stakeholders are needed, involving local authorities, municipalities and traditional communities, as well as civil societies and the private sector.

Moreover, it is fundamental to act in line with the 2030 Agenda for Sustainable Development, especially to target 10.7, committed to cooperating internationally to facilitate the orderly, safe, regular and responsible migration and mobility of people. On the other hand, the recently signed Global Compact for safe orderly and regular migration, in which are acknowledged the shared responsibilities of Member States to address each other’s needs and concerns over migration, states “an overarching obligation to respect, protect and fulfil the human rights of all migrants, regardless of their migration status, while promoting the security and prosperity of all our communities”.

We would like to reaffirm, in all this complex discourse, that international solidarity is the only means through which we can overcome the current challenges. To recognize the Right of International Solidarity, defined according the proposed draft Declaration, could be critical in order to protect the rights of the migrants and to defend people prosecuted for assisting them.

Let us not look the other way, let us not turn our backs on this sufferance, and let us not remain indifferent. The time to take action is now; we must not let the sea swallow our consciences.

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over-criminalised”, François Crépeau, Workshop on smuggling and trafficking, 2/10/2013.

<sup>7</sup> Pulella P., “Pope criticizes building walls to keep migrants out”, Reuters, 31/03/2019, <https://www.reuters.com/article/us-usa-immigration-border-pope/pope-criticizes-building-walls-to-keep-migrants-out-idUSKCN1RC0UO>