



## **Refugee Solidarity Network Statement on the New York Declaration for Refugees and Migrants**

September 15, 2016

On September 9th, the UN General Assembly adopted a resolution titled the New York Declaration for Refugees and Migrants. This is the outcome of a process of negotiation and drafting by member states throughout the summer of 2016. On September 19, the New York Declaration will be more formally adopted at the High-Level Meeting to Address Large Movements of Refugees and Migrants.

RSN recognizes the immense value of the global community coming together on the sidelines of the General Assembly to address and discuss, in several forums, the topic of refugees and migration, including: the September 19 High-level Meeting to Address Large Movements of Refugees and Migrants, convened by the United Nations; the September 20 Leader's Summit on Refugees, convened by President Obama; and the Private Sector Forum on Migration and Refugees, hosted by UNHCR, IOM, and Columbia University. These forums allow for important conversations on refugees and migration at a time when the world is experiencing the highest instance of human displacement since WWII.

As a human rights organization supporting due process and respect for refugee rights in the world's largest host state and other significant host countries, RSN is concerned with a number of aspects of the Declaration. Broadly, the Declaration displays key shortcomings in its language and approach. Given that the Declaration does not create binding obligations on states, and rather encompasses aspirations for states to adhere to, RSN is disappointed by its measured tone. RSN looks forward to ongoing negotiation and dialogue among stakeholders following the September events and is hopeful greater progress can be made. For now, we wish to identify the following areas of concern, in the hopes of continuing advocacy on these issues going forward.

### **Protecting the Right to Asylum**

RSN applauds the language used in paragraph 65 reaffirming the international refugee protection regime. However, references to "safe, orderly, and regular migration" appear repeatedly in the Declaration, beginning with paragraph 4 and again in the same or similar terminology in paragraphs 16, 21, 41, 57, 58, and 63.

RSN understands the importance to governments to manage mass arrivals and the security needs associated with migration. However, such language has been used by governments to justify a number of restrictive measures that are at odds with human rights obligations, such as militarized and sealed borders where pushbacks and other rights violations occur as well as widespread detention policies.

Article 31 of the 1951 UN Refugee Convention prohibits states from imposing sanctions on an individual for entering territory illegally to seek asylum. This important principle is overlooked

by the drafters of the Declaration and is overshadowed by the emphasis placed on border security and states' rights to manage migration.

RSN is concerned that such terminology may further promote a trend of restrictive border patrol and migration management policies. RSN understands the right of States to protect territory, but the Declaration is not the appropriate forum to reinforce this right. Instead, the Declaration should remind states of their obligation not to penalize individuals fleeing for their safety and to harmonize this right with increasing trends of securitization.

### **Ending Child Detention**

While RSN acknowledges the Declaration's efforts to improve the rights of refugee and migrant children, the Declaration also contains some deficiencies when it comes to upholding such rights. In reference to paragraph 33, which discusses protecting "human rights and fundamental freedoms of refugee and migrant children," the Declaration is lacking absolute terms on the practice of detaining refugee and migrant children. An earlier version of the document contained specific language acknowledging that member states must commit "never to detain children." RSN joins a community of human rights organizations in voicing concern that this language was removed.

The Convention on the Rights of the Child (CRC) states that depriving children of liberty unlawfully and arbitrarily is prohibited and, therefore, detention should be used only as a measure of last resort for the shortest appropriate period of time. The Declaration reminds states of the importance of upholding and acceding to the CRC, which we applaud. However, the removal of the language condoning detention of children absolutely seems to be a contradictory and regressive action taken by member states on a Declaration that is already non-binding.

### **Protecting LGBTI Communities**

RSN is concerned with the lack of specific recognition of LGBTI individuals as a vulnerable group. Paragraph 23 of the Declaration discusses the recognition of people in vulnerable situations, yet without mention of LGBTI persons. RSN and other organizations note that such reference was indeed included in the earlier, July 12<sup>th</sup> version of the Outcome Draft Document and was later removed. The removal of reference to LGBTI individuals during the course of negotiations is of major concern, as it is widely documented that individuals face persecution based on their sexual and gender identity across the globe. Language recognizing vulnerabilities of "persons who are discriminated on any basis" is inadequate in this regard as other vulnerable groups are specifically listed in this section.

### **Burden Sharing**

We applaud the Declaration's call for greater "burden sharing" among states, with the suggestion that the term "responsibility sharing" instead be used to refer to countries' efforts to support refugees and migrants. People on the move can present many situations to their new country, including opportunities and benefits, and not simply challenges. We believe that proper terminology is important to remind policy makers and the public of the complexity and humanity of refugees.

The Declaration appropriately applauds states that have gone above and beyond supporting refugees. We add our voice to the call for states to support other host countries accepting the most forcibly displaced people within their borders. First countries of asylum unevenly shoulder the responsibility that can and should be shared by all.

Similarly, we also commend the Declaration for its recognition that refugee camps can no longer be seen as long-term or state of the art solutions to refugee issues. In that vein, we note that the international community should not treat first countries of asylum and transit countries as open-air refugee camps from which they can select refugees to resettle. States should instead uphold refugees' rights to launch asylum claims in a territory that suits them, and uphold freedom of movement. While effective solutions will require time for political negotiation, the practice of leaving refugees and asylum-seekers in extended periods of limbo, deprived of rights to family unity and free movement, must end.

### **Removal of Resettlement Quota**

RSN supports programs in some of the world's major refugee host countries. As 86% of the world's refugees live in developing nations, we strongly support resettlement programs that help more equitably share responsibility on the global level. While resettlement will always remain insufficient in comparison to overall needs, it is both practically and symbolically important. RSN strives to improve conditions in major host countries, a task that is made ever more difficult when responsibility is not shared. We therefore regret that the commitment to resettle 10% of the world's refugees each year was removed from the Declaration.

### **Looking Ahead**

As our commentary on this document is by no means exhaustive or definitive, we encourage states to heed civil society's voices regarding both the problematic and praiseworthy elements of this Declaration. We hope that a diverse set of voices from refugees, practitioners, advocates, and activists can impact future global policy work on these issues, and help use the positive tools in the Declaration as a method for increasing the rights of refugees across the globe. To this end, we draw attention to the [Civil Society Statement](#) to which we have signed.

Going forward, RSN will continue to engage policymakers and international organizations as a member of civil society and key coalitions, focusing not only on states' obligations to adhere to human rights norms, but by promoting sustainable responses to displacement of any magnitude. RSN will continue to deploy its approach to refugee and migration issues by supporting strong legal aid systems as a critical component of effective comprehensive refugee response. While both humanitarian and development actors continue to engage with this issue, RSN hopes that its work with legal aid systems can serve the needs of guest populations but also exemplify local resilience in boosting legal assistance capacity in the long-term for host communities. High-level dialogues allow for an opportunity to evaluate such possibilities among others, and realize a vision for greater support for refugees across the globe.

### **About RSN**

Refugee Solidarity Network (RSN) is a US-based 501(c)(3) tax-exempt charitable organization founded to protect and expand refugee rights.

Launched in 2014, RSN initially focused efforts on the world's largest host country, Turkey, where it works with national NGO Refugee Rights Turkey/Multeci Haklari Merkezi. In 2016, RSN expanded partnerships to support legal assistance initiatives in Bulgaria and Greece. The core component of RSN and its partners' effort is to ensure that refugees are able to enjoy rights enshrined to them under international, regional, and national laws. RSN channels experience from the field into advocacy forums with a view to improving standards for refugees around the world. RSN is a member of the International Council of Voluntary Agencies and the International Detention Coalition.

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