



Civil Society recommendations on Protection at Sea

Sea Change Seven

Together, the undersigned civil society organizations around the world offer the following recommendations on Protection at Sea. These recommendations are in the larger context of addressing the assistance and protection needs of all migrant and refugee victims of violence and trauma in transit.

As in other moments in history—including the histories of many of our own countries, people are being driven across borders by armed conflict, political repression, and economic destitution. Some are so desperate that they risk their lives boarding unseaworthy boats to cross the Mediterranean and other seas; thousands upon thousands are dying in front of our eyes.

We call for a clear needs-first approach to the challenge of protection at sea and emphasize that *all* who cross the sea are bearers of universal, international human rights. All must be treated with dignity and respect. This includes all migrants, quite explicitly those who are refugees, asylum seekers, stateless persons, vulnerable women and children, and victims of torture, human trafficking, trauma and violence in transit.

It is the responsibility of States, with the support of the international community as a whole, to:

1 Ensure a needs-first approach to rescue at sea (SAR) operations and reception centers, regardless of anyone's migration status

Such an approach requires:

- ✓ Humane treatment and respect for the human rights of everyone rescued or surviving distress at sea
- ✓ Respect for the principle of non-refoulement
- ✓ Desistance from criminalization of irregular immigration
- ✓ Avoidance of punitive, arbitrary, or deterrent immigration detention

Timely rescue and safe disembarkation are critical for migrants and refugees in distress at sea. All should have prompt and fair hearings at reception centers to establish their status and to care for their needs.

2 Scale-up existing multi-actor frameworks of protection on a needs-first basis that meaningfully engage civil society competencies and partnership

such as:

- ✓ UNHCR's "10-point Plan of Action for Refugee Protection and Mixed Migration"
- ✓ IOM's Migration Crisis Operational Framework
- ✓ The Praesidium (Lampedusa) project, with increased emphasis on interdisciplinary mobile protection teams for post-rescue differentiation and referral to specific protection and assistance
- ✓ Interagency minimum standards for Child Protection in Humanitarian Action
- ✓ The UNODC International Frameworks for Action to implement the Palermo Protocols, in particular the recent guidelines on protection of victims of human trafficking and smuggling of migrants

Human traffickers and smugglers must be apprehended, prosecuted, and punished in accordance with international conventions, protection frameworks, and national laws.

3 Establish a protocol based on a needs-first principle to protect particularly vulnerable migrants and refugees, e.g., women and children

including provisions that ensure that:

- ✓ The best interests of the migrant child shall be the primary consideration
- ✓ Children are kept with their parents, and the safety and care of unaccompanied children are provided for
- ✓ Children are not detained
- ✓ Women are protected from gender-based violence

4 Ensure fair and competent responsibility-sharing and regional cooperation among coastal and non-coastal States of tasks and costs involved in SAR, relocation and resettlement procedures

including:

- ✓ Revision or replacement of the Dublin Regulation
- ✓ Support of search-and-rescue operations with humanitarian priority, like Italy's Operation Mare Nostrum

We urge States to remove disincentives to rescuing migrants and refugees at sea by reaching cooperative international agreements on asylum, migration, and border systems. Regional responsibility-sharing should address not only disembarkation but also reception conditions, efficient asylum procedures, and durable solutions.

We also urge that disincentives for private shipmasters to assist those in distress at sea be removed, with consideration given to compensating those who incur financial losses for rescuing migrants and refugees.

5 Address “route causes” and “root causes” of forced and dangerous migration

with:

- ✓ Express reference in the post-2015 Sustainable Development Goals to migrants and refugees as subjects and actors in transformative development
- ✓ Decent work and sustainable development in countries of origin to strengthen the right to remain at home, with migration a choice not necessity
- ✓ More opportunities for legal migration while reducing barriers due to increased securitization
- ✓ Cooperative international agreements by States to provide more safe-havens for asylum seekers, e.g., through expanded UNHCR resettlement programs
- ✓ Migration and asylum policies that recognize the benefits of migration and the contributions of migrants and refugees to the development of countries of destination and origin

Great care, consultation and convergence with UN agencies and civil society is imperative before implementing any proposal for external or in-country processing of refugees and others in need of protection.

It is urgent to provide pathways for legal entry to address the drivers of irregular maritime movements undertaken to achieve family reunification and access the labor market. Opening legal channels for migration and regularized movement for migrant workers, asylum seekers, refugees, and especially low-skilled workers will reduce the use of smugglers as well as underground labor markets.

6 Ensure that border management is firmly based on human rights principles

including:

- ✓ Requiring States engaged in migration control cooperation with third countries to ensure that their migration control agreements fully respect international human rights and refugee laws as well as the law of the sea
- ✓ Imposing human rights and refugee law obligations, as well as the international law of the sea and other relevant standards, on the procedures regarding the rescue of migrants and refugees at sea
- ✓ Requiring training of border authorities on international human rights law relevant to their work including its practical implementation and gender equality training
- ✓ Requiring monitoring for human rights-compliance regarding SAR and reception and holding States accountable for adversely impacting the human rights and dignity of migrants and refugees

7 Empower migrants and refugees

including:

- ✓ Access to the legal system through administrative agencies, courts, and other tribunals, including those that trigger human rights mechanisms, to enable them to take legal action on their own behalf
- ✓ Decent work and sustainable development in countries of origin to strengthen the right to remain at home, with migration a choice not necessity
- ✓ More opportunities for legal migration while reducing barriers due to increased securitization
- ✓ Cooperative international agreements by States to provide more safe-havens for asylum seekers, e.g., through expanded UNHCR resettlement programs
- ✓ Migration and asylum policies that recognize the benefits of migration and the contributions of migrants and refugees to the development of countries of destination and origin

A multi-stakeholder Migrants-in-Crisis Group should develop a matrix of existing legal instruments, guidance, and practical examples on how States and other parties can best protect all migrants and refugees in distress crossing sea, land, and air borders.