

**CONTRIBUTIONS OF THE REGIONAL NETWORK FOR CIVIL ORGANIZATIONS ON MIGRATION BEFORE THE XX VICE-MINISTERIAL MEETING OF THE REGIONAL CONFERENCE ON MIGRATION (RCM)**

**INTEGRATION, RETURN AND SOCIAL AND PRODUCTIVE REINTEGRATION OF MIGRANTS**

**MEXICO CITY, NOVEMBER 9-12, 2015**

**FEDERAL DISTRICT OF MEXICO**

In light of the meeting of the Regional Consultation Group on Migration held in Mexico DF, with Mexico as President pro tempore of the XX RCM, the Regional Network for Civil Organizations on Migration (RNCOM) makes a contribution from the perspective of its member organizations.

Today, the context and the realities of migration call for a comprehensive approach to migration in our region. Policies should focus on migrants, asylum seekers, refugees and stateless persons and their families, as well as victims of forced displacement – particularly migrant boys, girls and adolescents in highly vulnerable situations – in countries of transit and destination. RNCOM recognizes the tremendous importance of harmonizing the legal frameworks relating to migration of each Member State of RCM; especially in regard to international and regional law. RNCOM reminds the countries that are parties to international human rights agreements that they are bound by the obligation to harmonize their legislation in order to comply with these international commitments in regard to migrants, and particularly those populations that are highly vulnerable to abuse, the crime of trafficking in persons, slavery, etc.

We recognize the efforts that governments have implemented at a regional level to promote respect for human rights in managing migration flows and providing protection, through the establishment of protocols, guidelines, memos of understanding and mechanisms for inter-institutional collaboration, cooperation and coordination. We propose that the following mechanisms be established as the basic principles for addressing migration:

● **To make migrants visible and to recognize and treat them as subjects of rights, irrespective of their situation and administrative migration status.**

● **To recognize the contributions of migrants to development, in each country and in the region.**

● **To strengthen the participation of migrants, communities and civil society throughout the entire cycle of public policymaking, regional spaces for reflection and decision-making processes.**

Considering that the dynamics of populations on the move need to be addressed in a comprehensive manner, we propose the following topics as input for the development of an inter-institutional and intersectoral agenda, which was previously mentioned in establishing an Ad Hoc Group of RNCOM and RCM:

1. **ASYLUM, REFUGE AND STATELESSNESS:** RNCOM is very concerned about the fact that persons deprived of their liberty at migration stations in Mexico and other countries in the region lack access to refugee status application processes. These vulnerable groups, which face threats to their security and lives as a result of violence and organized crime, need to have a fair and appropriate chance to submit refugee status applications at the migration stations. RNCOM requests that governments, together with civil society organizations, put in practice and implement the Plan of Action of Brazil (A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean) and promptly issue resolutions for the applications. In this regard, countries should implement the expanded refugee definition and interpretation from the Cartagena Declaration.

It is important to advance toward the elimination of statelessness and the practice of depriving refugee status applicants of their liberty during the recognition process. Information about the applications and their resolution should be disseminated.

In this regard, effective practices exist in some countries in the region; for example, to issue temporary work permits for applicants while they are waiting for the final resolution.

Constitutional sentences could violate the right to a nationality in some countries, leaving multiple persons in the condition of statelessness and thus, vulnerable to violations of their human rights.

In order to address statelessness, we suggest that an auditing unit be established, composed of international experts on the matter as well as experts from civil society, to accompany and help stateless persons to obtain their personal identity documents, and particularly, to obtain information from the country of origin.

2. **THE CRIME OF MIGRANT SMUGGLING AND TRAFFICKING:** One of the achievements of RCM has been the development of protocols on this matter. However, efforts are required that are oriented toward the implementation, follow-up and evaluation of the protocols, mainly to ensure the principle of non-refoulement as well as assistance, protection and integration of victims of these crimes with the aim of balancing efforts relating to prevention, assistance to victims and prosecution of the crime. In addition, it is necessary to ensure access to justice and full reparation for the victims. Therefore, we urge governments to strengthen their capacities regarding **detection of and assistance for victims of trafficking, especially boys, girls and adolescents**, and to develop regulatory frameworks to typify migrant smuggling.

For victims of trafficking returning to their country of origin, it is important that migration and judiciary authorities ensure that the return is **voluntary** in order to avoid revictimization of the victim or impunity of the perpetrator. Furthermore, it is important that migrants who have travelled with migrant smugglers (coyotes) are not detained in common prisons together with criminals, but in appropriate centres while they wait for their prompt deportation or return.

3. **CONSULAR PROTECTION:** One of the advances of RCM has been the development of regional guidelines for consular protection. Particularly, some countries in the region have implemented efforts to put into practice a model for the comprehensive assistance of migrant boys, girls and adolescents, oriented toward strengthening consular assistance and protection through the design and implementation of the Consular Protocol for Psychosocial Assistance to Migrant Boys, Girls and Adolescents and Family Units.

However, it is necessary to **strengthen human resources through training**, providing funds to enable the implementation of joint inter-institutional and intersectoral actions to protect migrants and their families. In this regard, effective practices exist in the region; for example, binational or tri-national agreements in border regions or in cities with significant flows of migrants in transit. **Consulates should meet the protection and documentation needs** of citizens of their countries who are in transit or in highly vulnerable situations (reception centres), especially considering the conditions under which migration occurs today. We think that joining efforts between States in order to establish binational or tri-national consulates; implementing mobile consulates; and carrying out new preventative protection initiatives are all effective practices. RNCOM encourages governments in the region to develop – together with civil society – mechanisms of facilitation and accompaniment and to establish a formal and coordinated consular instrument to facilitate the expedited processing of all the cases that are received.

4. **INTEGRATION AND REINTEGRATION OF MIGRANTS:** More opportunities and programmes are

required to facilitate the local integration of individuals and families that transit through or settle in countries in the region temporarily or permanently. Given the significant increase in the number of individuals and families that are voluntarily returning or being deported to their countries of origin, comprehensive planning efforts should be implemented for each group of returned persons in order to achieve their actual integration. This should be a shared responsibility between countries of origin and receiving countries. In both cases, a coordination and assistance strategy is required at the various government levels (national, state and local). In regard to this, we recognize that the President pro tempore of RCM has promoted discussion of this topic. We urge RCM to promote a regional approach and strategies for coordination and financing in order to foster development and human security at an international level, including the issues of identity, full enjoyment of the right to an education (access, recognition, validation, accreditation and certification of studies throughout the entire education process, considering cultural diversity), recognition of skills, access to health care, etc., in order to achieve the effective and full inclusion of each person in countries of origin, transit, destination and return. Furthermore, refugees need to be included in local integration programmes of every government, given the absence of public policies to enable refugees to fully exercise their rights.

In regard to temporary workers holding a work permit with a specified time limit, RNCOM is concerned about the fact that the temporary worker status does not allow these workers to apply for permanent resident status.

5. **MIGRATION REGULARIZATION:** RNCOM recognizes the efforts implemented by some governments to establish migration regularization processes. However, not all irregular migrants are covered, since extensive and unaffordable requirements exist, among others. This hinders the access of migrants to dignified employment.

The migration regularization processes are not in line with the socio-economic profiles of migrant populations and are insufficient to generate integration and inclusion processes. Different situations can be mentioned that are linked to the migration status; for example, work permits that do not guarantee compliance with labour rights.

The majority of Member States of RCM have ratified the conventions of the International Labour Organization (ILO) on labour migration. Unfortunately, we are facing an economic crisis, which makes it even more difficult for migrants to find employment.

However, an exception has been made for some indigenous tribes that are collectors.

It is important to point out that to ensure the actual implementation of the migration regularization process, for children that are born in countries that have the right to ***jus solis*** this right should be respected through registration in the civil registry of their country of birth.

6. **ACCESS TO JUSTICE:** In some countries in the region, access to justice continues to be dependent upon the administrative migration status of migrants. **Given the conditions of violations of the rights of these populations, it is urgent to ensure access to justice for all migrants.** We remind you of the implementation of the 100 Rules of Brasilia in Ibero-America, signed by prosecution authorities from every Ibero-American country (the Judiciary) as a mechanism to enable access to justice for persons in vulnerable situations, which proposes a system to be established in the judiciary of each country to facilitate access to justice.

In regard to access to justice for migrants, victims of forced displacement and refugee status applicants, RNCOM is fighting against impunity.

The responses of the Inter-American Human Rights System and the United Nations universal system require that the rulings of the Inter-American Court of Human Rights are executed, as well as the recommendations from the committees of the United Nations treaty bodies and special mechanisms.

**It is important that States (governments and civil society) execute the recommendations from international systems – regional as well as universal – in order to honour the agreements reached at the Global Forums on Migration and Development, Safe and Orderly Migration, and others.**

Since the implementation of the regional campaign against abuse in the recruitment of labour of the regional initiative on labour migration (Iniciativa Regional sobre Movilidad Laboral – INILAB), the number of calls and reports received by the Ministry of Labour has increased, denouncing cases of fraud against migrant workers. Within this framework, efforts are being coordinated with the Public Prosecutor’s Office to give effect to the right of access to justice. RNCOM requests that Member States of RCM take special care concerning the decision to deprive migrant boys, girls and adolescents and refuge seekers of their liberty. This is not a semantic matter; it is about compliance with the best interest of boys, girls and adolescents in highly vulnerable situations.

RNCOM believes that, within the framework of RCM, we can implement very specific actions to build trust between police or military officers and communities of migrants in highly vulnerable situations in order to exercise the right of denunciation and due process. RNCOM is willing to accompany such processes, particularly for unaccompanied migrant boys, girls and adolescents.

7. **THE RIGHT TO AN IDENTITY: In some Central American countries universal birth registration does**

**not exist. It is important to take into account existing binding agreements on birth registration at the local level in order to properly register the birth of each child. This becomes even more important when registration conditions the migration status of the child in his or her country of birth.**

This right is a key factor for the development, survival and protection of the individual and the full exercise of the other human rights and should be guaranteed in situations of human mobility. This becomes even more serious for persons with irregular migration status. Irregular migrants are in a situation of double invisibility, which prevents them from fully enjoying their rights in the country of destination. In addition, they face obstacles that hinder migration regularization procedures in the country of destination, given that their status in their country of origin is not regular and they do not hold an official document as proof of their identity. Documentation is essential to promoting orderly and safe migration management.

**We urge governments to create the necessary conditions for extemporaneous birth registration outside national territory, thus contributing to the elimination of statelessness of thousands of persons.**

8. **FULL POLITICAL RIGHTS:** In recognizing populations on the move and making them visible, the full exercise of their political rights should be considered (the right to vote and be voted) in order to strengthen democratic processes. We suggest that a regional strategy be implemented to recognize the full political rights of the communities of migrants.

9. **SECURITY AND CRIMINALIZATION**: The increase in violence in Mexico, Guatemala, El Salvador and Honduras directly affects migrants and their communities. Violence is a cause of forced migration and in addition, migrants become victims of violence while passing through or at their final destination in these countries. We urge governments to promote actions with a human security approach, since persons are migrating in conditions of vulnerability and in addition, are exposed to becoming victims of violence by organized crime and, in some cases, conflict with authorities. States are not responding effectively and appropriately, considering the realities of the persons requiring protection, and have yet to develop effective programmes for assistance to victims. This is having a direct impact on other Member States of RCM, such as Canada, United States, Nicaragua, Costa Rica, Panama, Belize and the Dominican Republic. These countries are receiving asylum applications from migrants. In this regard, mechanism are urgently required to identify persons in need of international protection in mixed and safe migration flows.

The criminalization of persons in highly vulnerable situations who may be victims of trafficking or criminal networks may lead to revictimization if they are deprived of their liberty and treated as criminals. The high level of discretion of administrative officers managing migration leads to situations where access to justice is denied by consulates, which should protect their citizens in vulnerable situations.

10. **ALLIANCE FOR PROSPERITY PLAN:** In the past year we have attended the negotiations between the

US and Guatemala, El Salvador and Honduras to address the causes of migration. As a result, an Alliance for Prosperity Plan has been developed. The Plan promotes an agenda for medium- and long-term entrepreneurial economic development, negotiated as part of the topic of migration. As civil society organizations, we request that governments incorporate a human rights and protection approach in the Plan, as well as participation of civil society organizations and the development of mechanisms to monitor and evaluate this initiative. It is urgent that the Plan promote access to opportunities for economic development for returned migrants in their communities, considering their own proposals. The success of the Plan lies in addressing and resolving the structural causes of forced migration of the populations of the Northern Triangle countries, without disregarding assistance to persons that migrate as a result of these structural issues.

11. **SOUTHERN BORDER PLAN:** The report entitled [*México: Background and US Relations[[1]](#footnote-1)*](https://es.scribd.com/doc/262770740/Informe-Congreso-Eu-Plan-Merida)prepared by

the US Congressional Research Service states that from 2008 – when the Mérida Initiative was launched – to fiscal year 2015, United States has invested more than US$2,500 million (almost 38 billion Pesos, according to the current exchange rate) in support of Mexico to combat criminal drug dealing groups and to establish a Border of the 21st Century. Furthermore, the report states that the US Department of State has already invested US$86 million in the training of security officers patrolling the southern border of Mexico[[2]](#footnote-2).

With the Southern Border Plan, the security of migrants and refugees has been strengthened at this border and along the roads leading to the northern region of the country. Immigration controls have become more rigorous through the Southern Border Plan, and it has become impossible for the authorities to neutralize criminal groups. Furthermore, refugee status applicants have had a negative impact on the Plan.

12. **POST-2015 SUSTAINABLE DEVELOPMENT AGENDA**: We welcome the fact that the UN system

recognizes migration as one of the issues to be addressed in this agenda. We urge RCM to get involved in national processes (government – civil society) in order to develop indicators that will enable us to advance toward the achievement of these objectives, with the aim of generating initiatives to eliminate inequalities.

13. **MIGRANT BOYS, GIRLS AND ADOLESCENTS:** The best interest of the child needs to be ensured in

migration processes, including the designation of a guardian. Migrant boys, girls and adolescents should not be detained but rather, should be referred immediately to child protection systems. The interviews and procedures established in the protocols for assistance should be conducted together with relevant child protection authorities. The protocols have been developed based on RCM processes. Repatriation should not be the routine measure and, if this is the case, consulates should be strengthened to enable them to provide the required assistance and protection to migrant boys, girls and adolescents.

RNCOM recognizes the inclusion of constitutionally designated child protection institutions in each country as an effective practice.

Countries in the region should ensure access to procedures to determine refugee status for migrant boys, girls and adolescents, whether detained or not. In addition, these procedures should be carried out appropriately for this population. The Guidelines of UNHCR on boys, girls and adolescents seeking asylum are a model that governments should follow in interviewing asylum-seeking boys, girls and adolescents and analysing their claims.

The deportation processes by air and by land of unaccompanied migrant boys, girls and adolescents from Mexico and the Northern Triangle countries are systematically contradictory to the commitments taken on under the current Memos of Understanding, to the detriment of emergency psychosocial assistance and the best interest of the child in the receiving country.

In the majority of Member States of RCM, relevant legislation is oriented toward protecting boys, girls and adolescents. Others have ratified the Convention on the Rights of the Child. The current issue with unaccompanied boys, girls and adolescents is that they are deported to their countries of origin or deprived of their liberty without having access to appropriate consular protection and programmes to support and protect them.

The civil society organizations of RNCOM propose that relevant authorities be supported in this task by organizations with experience concerning the establishment of inter-disciplinary teams and psychosocial accompaniment and assistance for victims.

1. **IN REGARD TO THE PROPOSAL ON INSTITUTIONAL STRENGTHENING OF RCM**: We appreciate the fact that almost 20 years after the inception of RCM efforts are underway to strengthen this space in order to energize, motivate and encourage participation at the vice-ministerial level. From our perspective, this space requires permanent and innovative efforts to respond to the changing circumstances of migration. We believe that in strengthening RCM, high-level political dialogue should be maintained, promoting binding technical and legal actions to address the current realities.

We offer the following suggestions for consideration:

* While efforts are being implemented to address topics relating to migration in accordance with the interests of RCM through the President pro tempore, a common agenda needs to be developed together with civil society and other actors involved in the matter, in accordance with the national and regional realities and capacities and with follow-up mechanisms, as well as clear and timely indicators to account for the advances in the implementation of the agenda in the short, medium and long term. All this as a measure to develop and strengthen best practices on the matter.
* To strengthen coordination spaces and mechanisms for coordination between governments, civil society and other actors involved in the topic in order to support the implementation of the agenda at a national level, maintaining the dialogue with the Technical Secretariat and the President pro tempore of RCM.
* To promote a high-level permanent forum including civil society to jointly implement follow-up efforts, together with the governments, international organizations and civil society participating in RCM, in order to avoid duplication of immediate and medium-term actions.
* To recognize the identity and travel documents issued by receiving countries in every Member State of RCM in order to enable migrants to travel through these countries without fearing to be detained because they do not hold a passport.
* To implement a regional strategy aimed at recognizing the full political rights of migrant communities in order to strengthen democratic processes.
* From our point of view, governments need to urgently incorporate dialogue, strategies and actions aimed at promoting a human security approach.

We reiterate our commitment to coordinate joint efforts with governments and RCM, with the objective of creating dignified conditions for the development of migrants, asylum seekers and refugees and their families.

**TECHNICAL SECRETARIAT OF THE REGIONAL NETWORK FOR**

**CIVIL ORGANIZATIONS ON MIGRATION**

**MEXICO CITY, NOVEMBER 2015**

1. <http://es.scribd.com/doc/262770740/Informe-Congreso-Eu-Plan-Merida> [↑](#footnote-ref-1)
2. See WOLA report at:

   <http://www.wola.org/commentary/update_on_mexico_s_southern_border_plan_new_routes_more_deportations_and_widespread_human> [↑](#footnote-ref-2)