



Statement on the use of private actors in migration enforcement and the effects of this on vulnerable migrants.

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Your Excellencies the co-chairs and your Excellencies and Distinguished Ladies and Gentlemen participating in this Interactive Round Table.

Thank you for your presentations, and for allowing my Institute to make this intervention.

The UNU Institute on Globalization, Culture and Mobility, a UN research institute operating out of Barcelona's current research into policy relating to statelessness indicates gravely adverse implications of an increasing use of private actors in the enforcement of migration control functions for vulnerable migrants and for states' existing international obligations. This is something that has also been mentioned by the Special Rapporteur.

The role the private sector may have in supporting states to protect vulnerable migrants during the migration process needs, therefore to be examined, in

contrast to measures focused on security enforcement. And ensuring these sovereignty-related functions remain directly under state supervision.

There are two forms of this delegation to private actors:

First, there is explicit delegation to paid private agents. This includes visa verification and the employment of security companies, for example at migration detention centres, at airports and at other state borders.

Our research notes some such activities taking place, in some form, on every continent. Meanwhile, private visa verification companies are involved in visas of at least some persons moving from at least three quarters of the world's countries.

Second, there is implicit delegation to private agents who are not paid, but are sanctioned if they fail to enforce migration control measures including the sharing of data mentioned by Michelle Levoy earlier in this Round Table discussion, and by the Special Rapporteur. Such agents include transport carriers, employers, and public service providers.

This matter is not clear-cut. Carrier Sanctions were endorsed for example in 2000, in the Trafficking Protocol to the United Nations Convention against Transnational Organized Crime (entering into force in 2003). However, it is not new to note concrete concerns at the difficulties carrier sanctions impose upon those seeking safety.

Indeed, as was emphasized in this Interactive Round Table in February 2013 and today by the representative from the Global Alliance Against Trafficking in Women, trafficking and smuggling need to be distinguished. To quote the Special Rapporteur, smuggling is 'the service of moving people from point A to point B'.

While such sanctions may make things more difficult for traffickers, they also hinder migrants trying to move without the use of traffickers, and smugglers that may try to help them do so without imposing further human rights violation.

So, using private agents in migration enforcement currently:

- Increases the hurdles persons must overcome to reach places of safety.

Currently:

- Moves the responsibility for decision-making and for taking some forms of coercive action to private actors, who may be outside international conventions.

This also currently:

- Puts unfair pressures on individual persons such as service providers and carrier personnel to make humanitarian decisions despite the risk of sanction if the relevant state does not endorse their decision, and to take such decisions without proper training in humanitarian considerations and international legal frameworks.

And currently

- Moves otherwise humanitarian and sovereignty-related matters into the realm of business-motivated decision-making.

We therefore recommend:

- Increased transparency about when and how private actors are being used in this way, particularly in the area of services relating to depersonalised visa verification.
- Acknowledgement of the particular effects of this use of private actors on vulnerable migrants and the effects on state obligations towards them.
- Re-examination of the obligations of private actors in this area, including increased scrutiny of such companies that are signatory to the

International Code of Conduct for Private Security Providers and the UN Global Compact and their record in terms of the human rights of migrants in their care. This includes also a further examination of the role of the Guiding Principles on Business and Human Rights in this area.

Indeed, in its background papers for this Dialogue, IOM has described human trafficking (and smuggling) as ‘The Migration ‘Business’’. However, another side of this business is the use of private actors in migration enforcement measures, and the implications of this for international obligations and the human rights of migrants.

This work is part of a wider United Nations University network of Migration Research. More information about this project results will be available in due course from our website, www.gcm.unu.edu. Thank you.