

**WORLD CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF REFUGEE
LAW JUDGES**

Advancing the Refugee Law Around the World: Contemporary Challenges in
Emergent and Established Asylum Systems

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Excellencies, Honorable Judges, Ladies and Gentlemen:

It is also a pleasure for me to be with you at this important World Conference of the International Association of Refugee Law Judges and I would like to thank Honourable Justice Sebastian de Groot, President of the Association, and Honourable Justice Amor Tounakti, President of Tunisian Organization of Penal and Security Reform for their kind invitations. It is both an honour and a pleasure to be here.

Thank you again.

In this short presentation and conscious of time constraints, I will attempt to focus on a major issue facing us today, which, though not new, has alarmed the international community. It is to do with the recent incidents of loss of lives at sea of people, who in their quest for a better life, have perished.

We are all aware that migration has been here since time immemorial and that it will only grow for a variety of obvious reasons. Any attempts to justify migration while standing over here, would be like preaching to the converted.

To re-enforce the above observation, and I believe that my colleague from the United Nations High Commission for Refugees will agree, an estimated 230 million people currently live outside their country of origin. These include people who might have fled hunger, war and persecution or emigrated in order to find a better life somewhere else.

¹ The views where expressed are those of the author and do not necessarily reflect those of International Maritime Organization.

While it is accepted that migration of people in this global village, which is shrinking with the passage of time, is here to stay and migrants in general do make a positive contribution to the economies and societies of the world; prudence dictates that we need a system of migration, which is managed and sustainable such that there is safe and smooth flow of people from one place to another without burdening the administrative, legal and social systems in countries of origin, transit and destination.

Excellencies, Honorable Judges, Ladies and Gentlemen:

We are aware of our moral and legal obligations enshrined in international law such as the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Convention on the Law of the Sea, the United Nations Convention against Transnational Organized Crime and the associated Protocols, the Convention and Protocol Relating to the Status of Refugees, the International Convention for the Safety of Life at Sea and its Protocol, and the International Convention on Search and Rescue.

We are also aware of the high numbers of deaths at sea that have taken place in the Mediterranean and elsewhere when unknowingly, fellow human beings took to sea in unsafe and unseaworthy watercrafts for a better life somewhere else.

Unfortunately, some of them, including women and children could not make it and died in attempts to cross across.

Reports indicate that from 1 January to 3 September this year (2014), no fewer than 436 merchant ships were diverted from their routes to rescue persons in the Mediterranean, adding significant costs and delays for ship owners and putting ships' crew in danger.

That is a major issue for International Maritime Organization as the scale of the problem is putting at risk the proper application of international regulations associated with rescue of persons, regardless of their nationality or status, in distress or danger of being lost at sea.

It is imperative that, we, collectively, strengthen the mechanism whereby migration is managed and sustainable, and migrants do not leave their countries of origin illegally in the first place. However, if some illegal migrants do manage to leave the shores of their respective countries, which may be inevitable, then a robust mechanism should be in place to protect and save lives, and deal with migrants in a sustainable manner in accordance with international humanitarian law.

While there is no one agency that can find a solution to the problems we face, the way forward lies in interested and relevant organizations to consider strengthening collaboration with a view to fostering, among other things:

- 1) The capacity of States concerned to better monitor their territorial waters and contiguous zones, thereby people do not leave the shores in unseaworthy crafts and without proper documentation.
- 2) Governance of the Mediterranean Sea in particular and that of international waters in general.
- 3) A mechanism whereby members of the syndicate, which deliberately and knowingly take part in the heinous crime of endangering the lives of others, by transporting them to other countries in unsafe means of transport, are brought to justice under a clear and enforceable legal regime.
- 4) Steps on managed and sustainable migration in the interests of all.
- 5) Endeavours to identify gaps in the existing legal regimes, national and international, and fill them thereby facilitating safe, smooth and unhindered movement of people, including migrants and asylum seekers.
- 6) Efforts to deliver as one UN with actions that are results' oriented and in line with the United Nations development agenda beyond 2015, taking note in particular that maritime transport contributes to sustainable development for global prosperity.

The above is no easy feat to accomplish, but it is possible with good will, faith, dedication and commitment.

Honourable President:

In my view, an outcome of this World Conference may be a resolution or a statement that should at a minimum: 1) condemn **actions** that lead to the loss of lives of people transported in unsafe and unseaworthy crafts while attempting to cross the Mediterranean to countries in Continental Europe in pursuit of better lives; and 2) declare or reaffirm, as appropriate, that those who knowingly and deliberately commit the heinous crime of endangering lives of fellow human beings by putting them in unsafe and unseaworthy crafts are criminals, who have no respect for life, and urge corresponding robust action by the international community against them.

Thank you.