

# Joint Statement of Civil Society in the Negotiations for a Global Compact for Safe, Orderly and Regular Migration

13 March 2018

## On Vision and Aspiration

Civil society is **connected across a diversity of networks, sectors and regions**, including migrants themselves and we share a common vision. In the spirit of the New York Declaration, Agenda 2030, the Sutherland Report, SRSG Louise Arbour's report, and the former UN Special Rapporteur François Crépeau's 2035 agenda for facilitating human mobility - we are committed to work - with States - towards a Global Compact for Safe, Orderly and Regular migration that provides the **concrete tools to improve the lives of migrants and their communities, across the globe**.

We commend the co-facilitators for organizing an inclusive consultation process last year and for incorporating many of the different inputs into the first zero draft: we believe the Zero Draft Plus is **comprehensive, and offers many practical elements for effective implementation**.

Indeed, during the Stocktaking last December and again in the first round of negotiations, we heard many governments bring **energy, political will and real-time solutions** to the discussions. Many do impressive work in their national and/or regional context on aspects of migration policy, and we encourage all Member States to **translate their good practices into concrete commitments at the global level**. We are glad to see you are actively building alliances to enhance dialogue across **regions**. We further encourage Member States to assume the role of protectors of the GCM objectives that reflect these good practices to ensure commitments remain in the Compact. Civil society will support your efforts with expertise and examples from local, national and regional levels.

What is at stake in these negotiations is to make sure we **do not regress on existing good practices and international human rights instruments, but build upon** the diversity of mechanisms already in place across the globe. This process is a historic opportunity for Member States to work *together* on framework for migration governance that protects all migrants and leaves no one behind.

## Elements in Zero Draft Plus and Second Round of Negotiations

We welcome the approach by the co-facilitators to offer time in the second round of negotiations for in-depth exchange on specific areas. With this statement, we take this opportunity to comment on the four areas that have been put forward in the Programme of Work.

### ○ **Irregular – Regular**

The difference between "regular" and "irregular" migrants is not conceptually clear, and thus presents real issues at the ground level, where migrants may transit from one status to another over time and in some cases without their knowledge or control. Moreover, as per evidence raised throughout the consultations phase, irregular migration can be a consequence of many different situations other than irregular entry, and even irregular entry is often facilitated by the pull for low-wage irregular labor. Civil society raises our concern on the vulnerabilities faced by irregular migrants in transit and destination and calls for the need to increase regular pathways.

In this round we seek to address the reality of irregular migrants within the territory of Member States. We therefore welcome the commitment in the Zero Draft Plus to the **principle of non-discrimination and** ‘to strengthen the welfare of all members of society’. Among the various aspects of identifying migration status, we draw attention to non-discriminatory access to services, and labor law enforcement, to uphold basic human rights such as health, education and justice mechanisms as integral in the Global Compact for both migrant and host communities.

In recognizing some of the challenges faced by some Member States to provide such access, we recommend that language in the Zero Draft Plus focus on developing, reinforcing and maintaining necessary capacities and resources to deliver basic social services, including fair labor law enforcement, to all migrants, regardless of their migration status, and to ensure that all necessary steps are taken to allow them to safely access these services. This guarantees the **fulfillment of current obligations enshrined in human rights, international labor standards, and other international law**. Importantly, it will also guarantee **broader public interest** goals such as the respect of human rights, the enhancement of the effectiveness of health systems, the trust in police, labor inspectors and the justice systems, combating xenophobia and discrimination and building harmonious societies.

In this regard, firewalls are understood as the **safeguards needed to ensure that service providers** may meet their confidentiality obligations and are not pulled into duties of immigration enforcement. These safeguards reduce vulnerabilities of migrants while improving overall public and workplace safety, health and social inclusion.

- We urge Member States to use the discussion on Area 1 to bring forward proposals on how the Compact could establish commitments and actions that enable Member States to get closer to the fulfillment of providing non-discriminatory access to basic services and to discuss pathways for people to move through safe and regular ways. We look forward to bringing concrete examples including those already in place in various levels.

#### ○ **Migrant – Refugee**

The reasons why people move are often complex and multidimensional. Migrants and refugees often move in similar circumstances, facing very similar vulnerabilities. We therefore welcome the Compact’s 360-degree vision of international migration to ensure that no one is left behind in global migration governance. In addition, the New York Declaration identifies specific issues and commitments that apply to both migrants and refugees: **looking at complementarity is therefore part of the mandate** that the community of states has committed to in 2016<sup>1</sup>.

While we recognize that the processes to develop the Global Compact for Refugees and the Global Compact for Migration are separate, both processes need to work together to identify ways to manage mixed migration flows, respecting a needs-first and rights-based process in all stages of the migration cycle<sup>2</sup>. Civil society would **rather see an overlap of issues**, than an ‘*underlap*’ of issues resulting in large groups of people left behind by both processes, in particular migrants in situations of vulnerability, such as children and their families, victims of torture or human trafficking, victims of

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<sup>1</sup> See paragraphs 22 – 40 of the New York Declaration for a list of commitments that apply to both migrants and refugees

<sup>2</sup> Quote from [UNHCR’s NYD FAQs](#) : “There are many issues affecting refugees and migrants that require a common international response, and many areas where treatment should not be dependent on status” ”, February 2018, p.7.

gender-based violence or organized crime, people escaping natural disaster or severe economic crisis, and those experiencing serious health problems.

**Civil society has a wealth of experience** in working with mixed migration flows and protection of migrants in vulnerable situations and stands ready to work with you on providing practices on ensuring the gaps of protection are filled.

- We request that Member States use the space for discussion on Area 2 to identify concrete ways in which the GCM could foster mechanisms to protect **migrants in vulnerable situations** throughout their full migration cycle<sup>3</sup>, **including looking at regular pathways** that respond to the complex and multidimensional drivers of migration
- We are working closely with colleagues in capitals and in Geneva to follow both the GCR and GCM discussions and we hope Member States are making similar efforts to assess the issue of complementarity **across their positions** in both Compacts processes<sup>4</sup>.
- We also welcome further information in the negotiations on how the co-facilitators and UNHCR plan to **monitor the interaction** between both Compacts.

#### ○ **Implementation and Capacity Building**

During the Consultation and Stocktaking Phase we heard many emerging ideas by Member States on the *how, what, when* and *who* of implementation, follow-up and review of the GCM. One idea we heard repeated by numerous states was that **the value of the Global Compact will be measured by the change it achieves.**

We welcome the focus on concerted action at global, regional, national and subnational level: national and regional action plans will be essential tools to integrate the Compact into national policy. We believe a strong link with the **Implementation of the SDGs** at every level framework, including well defined participation and responsibilities for migrants, refugees, diaspora and civil society, local authorities, private sector, National Human Rights Institutes and other stakeholders, will be paramount to the Compact's success.

We hope to see further clarity in the discussion on the way **both Compacts will interact in their implementation phase**, on the ground and at borders.

We urge you to establish a financing facility and adequate multi-year long-term funding for human mobility and migration to support the implementation of the actionable commitments contained in this Global Compact.

Lastly: amongst civil society there is wide agreement on the **urgency**. We need to talk about a means and timeline of implementation<sup>5</sup>. On the timeline, Member States could consider mirroring a

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<sup>3</sup> Some relatively simple measures could contribute to taking clear steps in that direction, such as the inclusion of the principle of non-refoulement in all policies of return or deportation. Others require restructuring migration policies to include mechanisms for granting visas and residency permits when neither asylum nor return are options.

<sup>4</sup> For NGO statements on the GCR, including language on complementarity, please click [here](#) and [here](#).

<sup>5</sup> We recommend Member States to align with and build upon the SDG model, as well as on the recommendations put forth in Rapporteur Crepeau's 2035 Agenda and in the civil society [Now and How: TEN ACTS for the Global Compact](#) as well as several regional and sectoral recommendations by launching a process to identify goals, targets and indicators along a graduated timeline of implementation.

graduated timeline for the actionable commitments against the timeline of the Regional and International Migration Review Fora.

A variety of initiatives have already suggested potential goals, targets and indicators that could inform such a process, including on women, children, and youths<sup>6</sup>. On the means, we welcome the inclusion of **capacity building mechanisms**, and hope to see more detail in the negotiations on concrete ways of achieving and supporting such mechanisms at all levels.

#### ○ **Follow-up and Review**

We would welcome a commitment to monitor the progress made in implementing the Global Compact in alignment with the follow-up and review of the Sustainable Development Goals, including, but not only, through the High-level Political Forum on Sustainable Development (HLPF).

A **multi-stakeholder approach** in the follow-up and review, with a key role for migrants and refugees themselves, will be essential to guarantee the Global Compact's **whole of society approach** and to foster ownership and empowerment. It will equally be critical that there is **structural interaction** with the Global Compact for Refugees where relevant.

We hope to hear more about the UN System reform and its role in supporting the GCM implementation. In particular we seek clarity on:

- How the process to further integrate the International Organization for Migration (IOM) into the UN-system is being taken forward, including the **alignment of its mandate and operations with the UN Charter and the IOM's-UN cooperation agreement** as well as a more inclusive and equal role for civil society in IOM processes and deliberations.
- The role UN agencies will play in the implementation of the Compact, and at what level. The **UN specialized agencies with competencies in areas related to international migration must also be fully integrated into the implementation mechanisms agreed.**
- How **civil society, including migrants and other stakeholders can play an integral role**, contribute to and participate in this process

#### **Civil Society and Migrants at Every Step**

Throughout the Consultations and Stocktaking phase in 2017, civil society has invested and organized at global, thematic, regional and national level and it is already engaged in the negotiations as well.

In 2017, more than five major global processes took place around the world involving over 1000 civil society organisations. At the regional level 7 regional civil society consultations took place, involving 470 people from roughly 93 countries. In our Civil Society Stocktaking meeting in Puerto Vallarta we took one of the two days and dedicated it entirely for conversation directly with governments, meeting with 50 representatives from 23 different governments to discuss key issues.

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<sup>6</sup> e.g. The [Initiative for Child Rights in the Global Compact](#) has developed a number of tools with goals, targets and indicators.

These processes have connected civil society actors across the globe, including trade unions as well as migrant and host communities themselves, for sustained commitment towards achieving a truly human and labour rights-centered Compact.

***We urge governments to live up to the spirit of the New York Declaration and, as Member States, to the institutional principles of the United Nations and human rights commitments enshrined in international law.***

***We stand ready to work with Member States as a partner during negotiations and through implementation, follow up and review, to respect and deliver upon the actionable commitments outlined in the Zero Draft Plus.***