

OSCE Office for Democratic Institutions and Human Rights (ODIHR)

2018 HUMAN DIMENSION IMPLEMENTATION MEETING

Warsaw, 10 to 21 September 2018

Working session 12 (specifically selected topic): Rights of migrants

Tuesday, 18 September [10:00-13:00]

Introducer Presentation by Monami Maulik

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Good morning your excellences and civil society friends. I begin by wishing to thank OSCE Member States and the Office for Democratic Institutions and Human Rights (ODIHR) for focusing on **‘The Rights of Migrants’** as one of the three thematic areas for this year’s Meeting.

I represent the **Global Coalition on Migration** (<http://gcmigration.org>)- our members include large civil society and migrant rights networks across Africa, Asia, Europe, the Americas, the Middle East and North Africa along with international trade unions and NGOs. Our coalition, in particular raises the participation of migrants and migrant-led organizations themselves as well as human rights defenders of migrants and refugees.

I hope to contribute to our discussion today by providing an overview of the **UN Global Compact for Safe, Regular and Orderly Migration**- an international non-binding agreement and historic multilateral process which concluded this past July after six rounds of inter-governmental negotiations at UN headquarters in New York. In 2015, after public attention was raised to the human rights crisis of migrants and refugees, a **high-level UN Summit to address large movements of refugees and migrants**

took place in September 2016. The Summit explicitly aimed to ‘bring together countries on a more coordinated and humane approach’. At that summit, the **New York Declaration for Refugees and Migrants was adopted by the General Assembly of the UN** and set forth a two-year process of consultations around the world leading to intergovernmental negotiations for two separate Compacts in 2018- one on refugees and one on migrants.

This coming December, governments, UN agencies, civil society and stakeholders will converge at the UN Conference to Adopt the Compact during ‘Migration Week’ in Marrakesh, Morocco. **‘Migration Week’** will include the high-level UN conference, the annual Global Forum on Migration and Development meeting and various side events and grassroots activities.

The Global Compact on Migration brings a unique opportunity for Member States to promote concrete policies at the national level- policies that can shift the public narrative on migration away from the politics of fear, division and xenophobia towards one of cooperation that is **‘people-centered’, ‘human rights-based’ and takes a ‘whole-society-approach’**. Indeed, these are critical elements towards the interests of the fulfillment of OSCE Member States’ commitments towards human rights, non-discrimination and minority rights as well as gender equality, border management and building inclusive and harmonious societies.

As civil society organizations, our perspective from the ground has been clear throughout the process: **that migrants are facing a human rights crisis exacerbated by increasing policies of criminalization, deterrence and externalization of borders.** With its 23 Objectives across the many dimensions of migration, the Global Compact on Migration can offer an opportunity to center the rights and dignity of migrants. In order to do this, there must be **bold leadership** to reframe the debate so that practical measures and actionable commitments work to uphold and respect the human rights of migrants rather than undermine them.

While many share the understanding that human mobility is nothing new, current policies fall far short of recognizing that migration will only increase in a globalized world. **This is particularly true for the ways in which language and policies diminish ‘economic migrants’ and ‘low-skilled’ migrants – those who are both regular and irregular, or move between legal status.** While it is important to shift the narrative to a positive one about the economic contribution of migrants, we must also go beyond the framework of ‘harnessing’ economic benefits from migrants when a fundamental and often unacknowledged driver in the current model is the demand for cheap and exploitable labor.

It is precisely due to the lack of adequate regular and safe channels that migrants are pushed into attempting dangerous journeys where they risk economic and physical exploitation and violence. The crisis and deaths at sea are fueled an over-reliance on policies that militarize and externalize borders - deploying policies from push-backs and border closures, to detention (including of families and children), to expedited removal procedures. These deterrence policies are ineffective when the demands for cheap regular and irregular migrant labor remain in destination countries.

What deterrence and criminalization policies do succeed in is to render migrants even more vulnerable to abuse and exploitation. In order for regular and irregular migrants- many who work as domestic and care workers, agricultural workers, service and construction workers- to no longer live in fear, to be able to report data on hate crimes or discrimination, or to join trade unions- **migration policies must enhance social cohesion and tolerance.**

Our strong hope is that when properly implemented and with concerted efforts to address gaps, the **Compact provides Member States with a sound framework for governing migration in a manner which respects human rights and the rule of law.**

I would like to highlight some of the **significant achievements** of the 23 Objectives for the Compact and their potential harmonization of policies of OSCE participating States:

- (1) Working to end child detention;
- (2) Expanding regular avenues for migration and measures for regularization as a way to reduce vulnerabilities;
- (3) Emphasizing community-based alternatives to detention, and not promoting detention as a deterrent to irregular migration;
- (4) Protecting migrants in situations of vulnerability, including those fleeing the adverse effects of climate change and environmental degradation;
- (5) Safeguarding the rights of children by adhering to the principle of the best interest of the child at all times and ensuring their protection;
- (6) Ensuring decent work, labour rights and freedom of association for migrants;
- (7) Promoting concrete gender responsive policies and the empowerment of women as agents of change rather than only as victims;
- (8) Guaranteeing due process, individual assessment and effective remedy in return procedures, by upholding the prohibition on collective expulsion and the principle of non-refoulement;
- (9) Strengthening the collection of data on migration in order to better inform humane policy responses, in a manner which respects the right to privacy;
- (10) Investing in sustainable development at national and local levels in order to honour the right of migrants to live and support their families in their countries of origin;
- (11) Cooperating to provide international protection to migrants in situations of vulnerability at borders;

In addition, as civil society we will work to advance current international standards and regional practice where there are gaps in the Compact- on two areas:

- (1) The non-criminalisation of migrants and of those who provide support to them- including Human Rights Defenders and humanitarian NGOs who save lives;
 - (2) To establish firewalls, access to basic services and on full labour rights of irregular migrants
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I will close by **highlighting three areas** where the active leadership of Member States is important to demonstrate existing and new good practices and policies at national levels:

(1) First on labour migration and labour rights:

Most migration today is linked directly or indirectly to the search for decent work opportunities. Even if not the primary driver, employment usually features in the migration process at some point.

Employment prospects in destination countries and the lack of decent work opportunities in origin countries are a driving force for millions of migrants. The International Labour Organization (ILO) estimates that today there are 150 million migrant workers, representing over 65 per cent of all migrants. Among migrant workers, 56 per cent are men and 44 per cent are women.

Temporary labour migration programmes can offer regular pathways and migration options for millions of migrant workers. Yet, temporary labor migration schemes - especially for low-wage workers - may have structural flaws that lead to the denial of labor rights, including the freedom of association and creation of vulnerabilities to forms of exploitation.

Under Objective 6 of the Compact, Member States, trade union and civil society partners can work together toward stated objectives of improving labour migration programmes that “ensure decent work, afford equal treatment in accordance with national laws and regulations and international obligations, and respect the fundamental principles and rights at work.” (International Labour Conference Resolution, 2017)

(2) Second, on combatting xenophobia, racism and discrimination

The challenges within which the Compact was being negotiated have also been deeply rooted in social intolerance and racism in several aspects of migration:

- Discrimination and racial intolerance- particularly as ‘migration’ is often a code word for ‘racial’ and ‘ethnic’ difference;
- Afrophobia and Islamophobia- which are often unnamed but at the heart of xenophobia in the current context in of destination countries and fueled heavily by media images and framing;
- Gender equality- and the intersections of migration statuses, race, religion and gender identity;
And
- Economic inequalities within and between countries and regions.

Objective 17 of the Compact to ‘Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration’ offers actionable commitments to shift public discourse on migration. In particular, efforts within national contexts and involving National Human Rights Institutions need to be showcased where mechanisms have been created to ‘prevent, detect and respond to racial, ethnic and religious profiling of migrants by public authorities, as well as systematic instances of intolerance, xenophobia, racism’.

(3) Third, Gender Equality and Women Migrants

The ability of the Compact to truly be “gender-responsive” means that it should go beyond repetition of words. It must be reflected in the Global Compact’s objectives in tangible ways that will change the lived experience of women in migration in all their diversity, in countries of origin, transit, destination, and upon return. To this end, Member States should partner with women’s organizations and other stakeholders to demonstrate national policies that are gender-responsive in key areas of the Compact including the right to access basic public services, labor rights and justice regardless of status. Good practices can be showcased between countries on bilateral labour migration agreements for women migrant workers that ensure women are provided

standard work contracts and enforcement mechanisms.

As civil society, migrant organizations, National Human Rights Institutions and trade unions, among other partners, continue working together towards the adoption of the Global Compact in Marrakesh in December and into Implementation and Review at the International Migration Review Forums in coming years, **we look to Member States to take bold leadership to develop National Action Plans on the Compact that center human rights and a whole-of-society approach.**

Thank you.

Objectives for Safe, Orderly and Regular Migration

- (1) Collect and utilize accurate and disaggregated data as a basis for evidence-based policies
- (2) Minimize the adverse drivers and structural factors that compel people to leave their country of origin
- (3) Provide accurate and timely information at all stages of migration
- (4) Ensure that all migrants have proof of legal identity and adequate documentation
- (5) Enhance availability and flexibility of pathways for regular migration
- (6) Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work
- (7) Address and reduce vulnerabilities in migration
- (8) Save lives and establish coordinated international efforts on missing migrants
- (9) Strengthen the transnational response to smuggling of migrants
- (10) Prevent, combat and eradicate trafficking in persons in the context of international migration

- (11) Manage borders in an integrated, secure and coordinated manner
- (12) Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral
- (13) Use migration detention only as a measure of last resort and work towards alternatives
- (14) Enhance consular protection, assistance and cooperation throughout the migration cycle
- (15) Provide access to basic services for migrants
- (16) Empower migrants and societies to realize full inclusion and social cohesion
- (17) Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration
- (18) Invest in skills development and facilitate mutual recognition of skills, qualifications and competences
- (19) Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries
- (20) Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants
- (21) Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration
- (22) Establish mechanisms for the portability of social security entitlements and earned benefits
- (23) Strengthen international cooperation and global partnerships for safe, orderly and regular migration