

OHCHR intervention in the 'human dimension' session
Stocktaking meeting for the Global Compact on Migration, 4-6 December 2017, Mexico

We join others in stressing that the human rights of migrant women, men, girls and boys should be the focus of this Global Compact. We have four suggestions for actionable commitments:

Firstly, the rights and circumstances of the human being should be at the centre of attempts to define what we mean by 'safe, orderly and regular' migration. 'Orderly' migration should provide due process and predictability for migrants as well as for States, in order to guard against responses that are arbitrary or unlawful. It should not operate just as a synonym for preventing migration. Our common aim should be to ensure migration that is safe – for all migrants, and for all people in communities of origin, transit and destination. Safety should mean not just physical security but more broadly to the proliferation of an environment that respects, protects and fulfils human rights.

Secondly, we suggest that the Global Compact should ensure protection for migrants in vulnerable situations who are not refugees but who nonetheless are entitled to protection under the international human rights framework. OHCHR along with partners in the GMG has developed a set of Principles and Guidelines based in international human rights law to provide normative and practical guidance to States in this regard.

Thirdly, we believe that the Compact should operationalize the commitment made by States within the NY Declaration to review and amend policies that criminalize cross-border movements. Specifically, we recommend that States should establish a presumption against immigration detention in law and prioritize human rights-compliant, non-custodial, community-based alternatives to detention.

Finally, the Global Compact should commit States to ensure that any returns are lawful, safe, dignified and sustainable. Practical and effective mechanisms could be established to assess the individual situations of all migrants at international borders. Returns should be premised on the meaningful and sustainable integration of migrants, including access to effective complaint mechanisms and remedies.

A sole focus on returning migrants, without due attention to the reasons why they left and the conditions to which they will return, is likely to result in repeated cycles of precarious migration and a perpetuation of the human rights abuse to which migrants are exposed. Instead, consideration should be given to developing appropriate mechanisms to protect and grant legal status to migrants in order to address their needs and secure their rights.