**PROTECTING THE HUMAN RIGHTS OF MIGRANTS IN VULNERABLE SITUATIONS**

**Side-event on the margins of consultations for the Global Compact for safe, orderly and regular migration**

**8 May 2017 | 13:00-15:00 | Room VIII | Palais des Nations**

Keynote speaker: Craig Mokhiber

Ladies and Gentlemen, colleagues and friends,

On behalf of the UN High Commissioner for Human Rights, I bring you the warmest of greetings and deep gratitude for hosting, holding and participating in this discussion.

As we stand now officially at the cusp of an 18-month process to develop a *Global Compact for safe, orderly and regular migration* within the United Nations auspices*,* a discussion on how to address the countless examples of insecure and unprotected migratory experiences that we are witnessing today across all regions of the world is sorely needed. Not a discussion of whether or not human rights apply, but a discussion of *how* human rights are to be upheld – how the Global Compact can make migration safer for all, including the most vulnerable and marginalized.

Migration can clearly be a positive experience for individuals and communities in countries of origin, transit and destination, but for too many it is an extremely risky endeavour. For migrants in vulnerable situations it is in fact the very opposite of the subject of the Global Compact: it is not safe, it is not rights-respecting.

Many migrants will be in situations of vulnerability are in of specific protection and assistance as a result of the conditions they are leaving behind; due to the circumstances in which they are compelled to move and in which they are received; and/or as a result of a particular aspect of their identity or circumstance, such as age, gender, disability or health status.

Whether situational or personal, or intersecting, this vulnerability always requires specific human rights protection measures.

Survivors of torture, violence or trauma, regardless of their status, will need appropriate and competent medical and psycho-social services. Every person at international borders is entitled to an individual assessment of their situations of vulnerability and human rights protection needs, and to be free of discrimination, violence and arbitrary detention. Children should be protected as children, first and foremost – best interest assessment and determination procedures should be carried out in decisions relating to them.

Ladies and Gentlemen,

In the landmark New York Declaration for Refugees and Migrants, States pledged to combat with all the means at their disposal the abuse and exploitation suffered by migrants in vulnerable situations, and to address their special needs in accordance with obligations under international law. They have also indicated that these specific needs could be included in the Global Compact.

Our main challenge going forward is to translate the aspirational words of the New York Declaration and the existing international legal framework concrete measures to protect the human rights of migrants in vulnerable situations.

It is precisely for this reason that the Global Migration Group has decided to engage with the process of developing *principles and practical guidance on human rights protection of migrants in vulnerable situations*.

In an initiative led by the Office of the High Commissioner for Human Rights as co-chair of the GMG Working Group on Human Rights and Gender Equality, and through an open, consultative and multi-stakeholder process, the GMG has engaged with States as well as over 100 experts from the UN System, UN human rights mechanisms, civil society partners and regional organisations.

The General Assembly unanimously recognized this endeavour in the New York Declaration (para. 51), which was presented by the High Commissioner to the Human Rights Council in March [refer to copies of the report in the back of the room] where the principles and guidelines were broadly welcomed by a number of delegations.

Ladies and gentleman

On the part of the OHCHR, we think that to remain true to the commitments in the New York Declaration to people on the move, as well as to the existing human rights obligations of States, the Global Compact should strive to foster a human rights-based approach to migration, premised on the principles of universality, indivisibility and interdependence, participation, non-discrimination and accountability - rooted in law and founded on rights.

For this, OHCHR believes that the Global Compact will need to be based on the following building blocks.

1. The **first** is **the primacy of human rights**. Every migrant is a rights-holder, entitled to specific human rights protection, regardless of the motives people have for crossing international borders, how they do so and where they are.

When we talk about people, it is their dignity and their rights that should instruct what laws and policies are adopted. We must avoid seeing migrants solely as ‘security threats’ or ‘economic commodities’ or even as powerless ‘victims’. All migrants and are rights-holders entitled to claim their rights.

In this vein, the Global Compact should above all be **premised on the promotion and protection of the human rights of all migrants,** **regardless of their status, with a particular focus on those who are most vulnerable, marginalised and excluded**.

1. Our second point is that the Global Compact must be **firmly based in the legal obligations of states and other stakeholders**, using the international legal framework as a **guide** to develop meaningful and action-oriented commitments for action.

A key step towards ensuring migration policies that are grounded in human rights norms and standards is to ratify and implement all international and regional human right instruments and related conventions, and to reaffirm in policy and practice the fundamental importance of respecting, protecting and fulfilling the human rights of all migrants.

At the same time, OHCHR firmly believes that it is not enough to develop a compact that makes a rhetorical show of support for human rights norms and standards, while at the same time enabling action that will jeopardise this framework in practice.

We are seeing today across the globe attempts to undermine human rights safeguards in regard to practices of immigration enforcement, often on the basis of scarce evidence but rather to settle fearful public opinion.

Trends worldwide point to increased immigration detention (regardless of the devastating effect of these measures to migrant’s rights), and efforts to step up returns without due process guarantees and with little regard for the human rights consequences for migrants and their families, or indeed regard for the simple fact that unsustainable returns will lead to more precarious migration, not less.

The international community has an unprecedented opportunity -in the 18 months- to come together to develop common understandings and commitments on migration – based on the values and principles of the United Nations, and the international normative framework.

1. Our **third** building block is the need to include an explicit human rights thread that will run through the overall process to reaffirm and articulate how the existing normative framework applies to all aspects of migration, and to all categories of migrants.
2. And then **finally**, the process should a**ccommodate a participatory and multi-stakeholder approach**, with the engagement of States (at the national and local levels), UN agencies and related organizations (at the global and field levels), UN human rights mechanisms, civil society organizations, trade unions, NHRIs, private sector entities, academic institutions, and crucially the voices of migrants themselves.

We must be able to hear their stories, their voices and their ideas throughout this compact. A participatory and inclusive process cannot be *about* them, *without* them.

OHCHR, the Human Rights Council, Special Procedures and Human Rights Treaty Bodies have a vital role to play in ensuring that the Global Compact is human rights-based, and consistent with existing international human rights standards.

And ultimately, effective protection and inclusion of migrants will depend on ensuring that societies as a whole are invested in the success of this endeavour.

Colleagues,

The international community has an unprecedented opportunity in the next 18 months to ensure that “no one is left behind” by building a global compact that provides safe, rights-respecting migration. We will not have succeeded in our task if at the end of this process we fail meaningfully to address human rights protection gaps for migrants in vulnerable situations.

I thank you.