

Third informal thematic session of the global compact on safe, regular and orderly migration

PANEL 2: International cooperation and governance of migration in transit, at borders and on entry

Intervention of the Office of the High Commissioner for Human Rights (OHCHR)

Mr Moderator, ladies and gentlemen,

The response of States to international migration is a complex process of cooperation externally, within governments, and within societies.

Thus, we cannot hope to address the multidimensional issue of migration in a comprehensive and principled way without a whole-of-government, whole-of-society and whole-of-System approach.

The laws and standards that regulate and shape the actions of States on migration are an integral part of migration governance.

They set out the parameters and benchmarks for all migration governance measures.

We must remember that migration is a fundamentally human phenomenon, and it must be governed accordingly, in full respect of the human rights of all people involved and with a mind to facilitating human mobility.

It is in this way that ‘governance’ is distinguished from the concept of ‘control’ which is often less about cooperation, and more about containment and sometimes about advancing the unrealistic and ultimately dangerous illusion that borders can be somehow hermetically sealed.

While States have the sovereign right to determine their migration policies, it is important to remember that this right is constrained by the obligations that have been assumed by States – voluntarily and in exercise of their sovereignty - under international human rights law.

And States must recognise that their policies relating to the various strands of migration governance must be complementary for these policies to be effective.

That, for instance, if there are no regular channels available to those who seek family reunification, then migrants cannot be blamed for seeking to access asylum systems if they have nowhere else to make their claim.

Ladies and gentlemen.

It is clear that today’s dangerous, fluid and fragmented journeys throw up important challenges for governance, not least for the millions of migrants who journey in these precarious and perilous movements.

Migrants in transit risk a range of particular human rights violations and abuse, from push-backs and arbitrary detention at borders to violence from traffickers and border guards and denial of basic – and even life-saving – services.

Many of the problems that now characterize transit migration are intimately linked to overly stringent and increasing barriers to international migration and to the externalization of migration controls.

Vulnerable human beings can be left stranded at borders, unable to go forward or back.

And the effects of such measures are felt disproportionately by migrants most at risk; those who are poor or who suffer discrimination because of their gender or their age, race or religion, disability or other status.

Yet international law is very clear that borders are not zones of exclusion or exemption from human rights obligations.

To the contrary, States have a heightened duty of care for those migrants in vulnerable situations who will need specific protection interventions at borders.

To help States to meet this duty of care, OHCHR has developed a set of principles and guidelines on human rights at international borders, which translate the international human rights framework into practical measures for border governance; to ensure that border governance measures such as those taken to address irregular migration, migrant smuggling, do not violate human rights.

Ladies and gentlemen,

The global compact on migration offers a unique opportunity for the international community to devise truly 21st Century governance measures that uphold our values and principles while responding to the needs of governments and societies.

That is, lawful, rights-respecting governance.

Thank you.