

## **The UN Secretary-General's report on the global compact for safe, orderly and regular migration**

*Submission of the UN Independent Expert on human rights and international solidarity*

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The Independent Expert on human rights and international solidarity, Mr. Obiora Okafor, welcomes the opportunity to provide input regarding the Secretary-General's report on the global compact for safe, orderly and regular migration (GCM). International solidarity can be defined, as it is in the Draft Declaration on the right to international solidarity (the Draft Declaration), as "the expression of a spirit of unity among individuals, peoples, States and international organizations, encompassing the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals." Its components include: preventive solidarity - collective actions to safeguard and ensure the fulfilment of human rights around the world and to proactively address global challenges; reactive solidarity – collective actions of the global community to respond to the adverse impacts of natural and man-made disasters; and international cooperation, through which States that have the means to are able to contribute to the fulfilment of human rights and the achievement of sustainable development in other States. As stated in the Draft Declaration, international solidarity seeks "to create an enabling environment for: (a) Preventing and removing the causes of asymmetries and inequities between and within States, and the structural obstacles and factors that generate and perpetuate poverty and inequality worldwide; (b) Engendering trust and mutual respect between States and non-State actors to foster peace and security, development and human rights; (c) Promoting a social and international order in which all human rights and fundamental freedoms can be realized."

International solidarity is the driving force behind the search for collective solutions to global problems, and therefore animates and should infuse the GCM process. As the former Independent Expert on human rights and international solidarity has stated, "International solidarity insists that we have the ability to build a world where migrants and host communities share in the benefits of forging new opportunities together." This submission does not seek to provide a comprehensive vision for the GCM, but rather to highlight certain principles drawn from international solidarity that should be reflected in the structure and content of the GCM and its implementation, as well as certain specific proposals for actionable commitments to be included.

### **Structure and elements of a global compact for safe, orderly and regular migration, including its purpose, goals, challenges and opportunities**

*International solidarity's key role.* The issues around migration, including combatting racism and xenophobia, addressing the drivers of migration, ensuring effective international cooperation, and building effective regular migration pathways, cannot be addressed effectively without a much greater adherence to the principle of international solidarity, and widespread compliance with the spirit of the Draft Declaration on the right to international solidarity. The Draft Declaration provides a blueprint for the international community to

work together to build a social and international order in which all human rights and fundamental freedoms can be fully realized, and the GCM should be viewed as a key opportunity to work towards this goal.

*Human rights-based international cooperation.* Too often cooperation between States and other actors around migration is framed as focusing on arrest and repatriation, obscuring the status of migrants as stakeholders and as rights holders. The GCM represents an opportunity to reframe the understanding of the purposes of migration cooperation as enabling countries to fulfil their human rights obligations to migrants and to host communities and to provide for sustainable human development through the exercise of safe, orderly and regular migration.

*Fairly balancing the needs of all countries.* Given the complexity of global migration flows, all countries can be countries of origin, destination, and transit, and it is well known that in times of crisis in a given country it tends to be that country's regional neighbors that receive the greatest numbers of migrants. International solidarity requires an approach to migration that ensures that all costs and burdens are equitably shared between States, and that all States have an equal voice in the process.

*Giving voice to migrants and the most vulnerable.* Political and media discourses tend at best to portray migrants as victims or as problems to be solved, and at worst as criminals or parasites. An approach based on human rights and international solidarity requires recognizing migrants as rights holders, and as agents, with valuable contributions to offer both to their countries of origin and to their countries of destination. The GCM, as a State-led process, runs the risk of taking a top-down approach that not only fails to fully respect the human rights of migrants and host communities, but that also fails to take advantage of the enormous benefits that their expertise could bring. Instead, it should seek to provide opportunities for participation of grassroots actors – migrants as well as local communities in both origin and destination countries – in all aspects of migration processes and migration governance. Further, there should be specific recognition of the intersecting challenges faced by vulnerable groups, including women and girls, children and adolescents, and older persons, and the incorporation of a gender-based and child rights-based approach throughout the GCM.

*Addressing migration in context.* The issues around migration cannot be addressed without an understanding of the economic, social, and environmental factors that give rise to migration decisions. Such factors include the threat of violence, including domestic violence, political instability, discrimination, poverty and hunger, disease, natural disasters, a lack of adequate access to shelter, healthcare, education, or decent work. While the GCM cannot hope to comprehensively address such diverse drivers of migration as violence and instability, inequality and discrimination, poverty and underdevelopment, and climate change, it must contain a recognition that migration does not happen in a vacuum. The GCM must thus be cognizant of and integrated with other efforts to address these global challenges, including the 2030 Agenda for Sustainable Development, the Paris Climate Agreement, and others, and it must seek to further enable countries of origin and destination countries to address drivers of migration in a manner consistent with their human rights obligations.

## **Actionable commitments that may be included in the global compact on migration**

*International Solidarity (including development cooperation) that seeks to address root causes and reduce the risk of humanitarian crises.* The GCM should include firm commitments, including concrete financial commitments, to international cooperation to address migration-related issues, including not only actual migration processes and governance, but also the drivers of migration, including underdevelopment and humanitarian crises. International cooperation should also seek to build the capacity of border control agents and other staff dealing with migrants to address migrants in a manner consistent with respecting their human rights, including training on gender-based approaches and on child rights and the rights of older persons.

*Credible and realistic legal pathways for migration.* Criminalization and obstruction of migration leads to confusion, instability, exclusion, and violence. In contrast, migration that is safe and legal has the potential to provide enormous shared benefits to migrants, their communities of origin, and their destination communities. The first concern of the GCM should be to craft credible and realistic legal pathways for migration that brings these benefits to all concerned, in a manner consistent with human rights commitments and cognizant of the need to build social inclusion and cohesion.

*Enhancing South-South solidarity (including cooperation).* Given the important regional effects of migration, significant attention should be devoted in the GCM to enhancing South-South cooperation for safe, orderly and regular migration and for finding shared solutions to regional problems that may increase migrant flows or impede inclusion and social cohesion.

*Renewed commitment to human rights obligations.* A number of actors have noted that the international legal system, particularly international human rights law, already contains a framework for regulating migration in a manner that ensures that States comply with their human rights obligations to all migrants. The GCM should include a commitment of States to ratify all relevant human rights treaties and to fully implement the obligations contained in those treaties in domestic law.

*Collection of disaggregated data.* Making effective, evidence-based policy decisions regarding migration requires the collection and sharing of comprehensive and disaggregated data, while ensuring data protection and the right to privacy of migrants. Data collected should be disaggregated according to gender, age, race, country of origin, and other relevant factors. A mechanism for such data collection and sharing, along with a list of relevant indicators, should be included in the GCM.

## **Means of implementation and a framework for the follow-up and review of implementation**

*Genuine embrace of international solidarity.* Genuine and productive solutions to global challenges will not be found without the world acting in a spirit of genuine solidarity, one in which the needs and the voices of all those affected are taken into account. The GCM's means of implementation should reflect the Draft Declaration on the right to international

solidarity's vision of preventive solidarity to provide proactive solutions to shared challenges, reactive solidarity to respond together to important events and crises, and international cooperation to ensure that each State has the ability to meet the human rights needs of its people.

*Accountability – both to cooperative partners and to affected communities.* In order to be effective, the GCM must include meaningful follow up and review to ensure that commitments are actually reflected in international and domestic policy and practice. The GCM should include an accountability and review mechanism - one that incorporates not only the review of State partners, but also the views of civil society and other stakeholders, including most importantly affected communities. This should include dedicated funding to enable participation in the review mechanism by migrants and other local actors who might otherwise lack the ability to participate in international processes.

*Formalized incorporation of human rights review processes into GCM review.* Numerous international human rights mechanisms, including the UN Treaty Bodies, Special Procedures, and the Universal Periodic Review, as well as regional mechanisms, are already regularly analyzing States' compliance with their international obligations in relation to migration. In order to avoid duplicating these efforts and to further ensure the position of human rights at the heart of the GCM, the GCM's review processes should include a formal mechanism for incorporating these human rights-based reviews.