Towards a Human Rights Based Global Compact for Safe, Orderly and Regular Migration: Implementation, Monitoring and Accountability Mechanisms[1]

Executive Summary

This summary contains, in brief, the observations and conclusions of a longer paper that reviews examples of implementation, monitoring and accountability mechanisms under six multilateral agreements that we believe can be learnt from in considering how to achieve an effective global compact for safe, orderly and regular migration. The content and legal nature of a 'global compact' remain unclear, but from discussions so far, it appears unlikely that a binding treaty will emerge from the negotiations in 2018. In order to make an impact on the ground, the global compact on migration should not be simply a declaration on a declaration; it must contain at least an outline of how commitments made by States will be implemented and monitored over time. The paper therefore hopes to assist all in considering some of the options for effective implementation of this new international agreement on migration.

General Observations

- There appears to be a trend towards soft law frameworks that include implementation and follow-up mechanisms, including those with goals and indicators. Under non-binding agreements, well-considered and effective follow-up mechanisms are important in enhancing the capacity of the agreement to make a positive impact.

- Some binding agreements that have significant implementation gaps have been reinvigorated by developing follow-up frameworks, using existing agreed standards as baselines for workplans or roadmaps for their implementation. The global compact for migration can be seen as an opportunity to increase momentum around existing international standards on migration, such as on labour and human rights.

- At the time of adoption, some of the agreements left the specifics of implementation, monitoring and accountability mechanisms open. This can be useful where consensus has not yet been reach or detail needs to be added, but leaving an agreement open-ended may weaken it overall and allow tensions to develop later.

- Many of the agreements also left particularly contentious areas open to further development and negotiation. This flexibility allowed agreements to progress more quickly overall, whilst providing more time to build consensus on areas of divergence and enabling binding subsidiary agreements to be developed on areas with greater convergence.

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[1] For the full paper see: http://www.quno.org/resource/2017/6/towards-human-rights-based-global-compact-safe-orderly-and-regular-migration-paper-3
For previous papers in this series see: http://www.quno.org/areas-of-work/refugees-and-migrants

- Mixed models may be considered where there are tensions around whether an agreement should be binding. Non-binding agreements can be combined with a binding follow-up mechanism, so that emphasis is placed on ensuring progressive implementation.

- Supportive, expert advice from independent sources was a feature of all agreements reviewed, but their role was more prominent in older, binding agreements. How States can be supported through expert mechanisms may be especially important as the trend towards indicators increases the detail required for reporting on implementation of international agreements.

- There is an interest in decentralisation and democratisation of international agreements, which increases the roles and responsibilities of civil society actors. Transparency and participation were of central importance to follow up of the non-binding agreements reviewed.

- Follow-up and accountability mechanisms that were designed around the people and organisations most affected by the agreement were better equipped to receive information about situations on the ground and to engage local actors responsible for implementation. For an agreement on migration, it is worth considering how migrants themselves, as well as other groups who will be affected by the agreement (and those who will be direct implementers of it), will be involved.

Elements of effective implementation, monitoring and accountability mechanisms

Where possible, a range of different methods should be combined under one agreement, this allows a range of tools to be used by different actors, enabling States to gain assistance from a variety of sources.

1. **National Strategies** on national implementation to guide, develop and review progress over time, with a national focal point.

2. **Participation and transparency tools,** that enable those most affected by an agreement to be involved directly in implementation and accountability mechanisms.

3. **An independent technical advisory body** to offer impartial, non-politicised research and guidance and facilitate dissemination of good practice and which can contribute to technical assistance.

4. **A forum for practice sharing and cooperation** in a multilateral setting to allow a peer-peer exchange.

5. **Regular Review** of implementation in a **multilateral** setting and/or by an **independent expert body** with tools at its disposal for enabling dialogue, providing recommendations and raising concerns with States.

6. **A mechanism for non-compliance, including a forum for State-to-State mediation and dialogue** that has tools to engage the State Parties to bring about a resolution of a situation.

We recommend considering not just what can be learnt from existing mechanisms but also how existing mechanisms could be used to follow up on a global compact for safe, orderly and regular migration.