

2017 GFMD Civil Society Days, 29 June & 1 July
Safe, Orderly, Regular Migration Now: *Mechanics of a Compact worth Agreeing to*

Reporting template 2017
Civil Society Days working sessions and special sessions

Session theme:	Green room: Special session on Civil Society baselines, redlines and common messages towards the Global Compact on Safe, Orderly and Regular Migration
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A. 29 June - RECOMMENDATIONS DAY // Priority Messages to convey to states by the CSD Chairs and CSD rapporteur tomorrow during Common Space

1. Which are civil society's "non-negotiables" - redlines and baselines - for this theme?

Key baselines:

- Even if the Compact itself is not fully binding, it must affirm and take forward existing conventions, rights, binding obligations and standards, e.g., the 1990 Migrant Workers Convention and key ILO labour conventions, and also commitments—but be careful not to support documents or commitments that exclude migrants.
- The Compact must avoid two opposites: first, it should not frame migration as a problem to be solved, or as a negative. Nor should it frame migration and migrants in utilitarian terms, e.g., just as useful workers, or commodities and instruments for development.
- Civil society should be meaningfully involved in processes at every level in the development of the Compact. This includes a role in monitoring implementation of the Compact. Migrants of all kinds and diaspora are key actors and essential voices.
- Decision-making regarding migrant children must be governed by the best interest of the child principle.
- *Regularization* is the missing solution in discussions, commitments and policies on safe, orderly and regular migration.
- It is important that the Compact not become a Global Compact for prevention, enforcement and return. Rather than expressing a priority to “stop irregular migration”, the Compact should aim to reduce *risks* of irregular migration, most especially with increased options for regular migration and regularization for those seeking work, family unity and/or asylum.
- Legal channels of admission must be fair and decent to migrants at all skill-levels, and rather than constantly structure precarity, e.g., in temporary and circular labour migration schemes, lead to permanence instead.
- The Compact must explicitly recognize and include mechanisms that concretely respect rights to family life and family reunification that are universal, i.e., for all migrants.
- “Orderly” migration does not mean militarized, securitized, criminalized.
- Enforcement-related return cannot continue the way it is conducted now, as a recommendation in the *Sutherland report* makes clear.
- Immigration detention practices can and must to be challenged with reasonable alternatives, and ended without delay with respect to children.
- Labour migration programs should ensure job mobility, conditions of pay and work equal to those for nationals, rights to organize and bargain collectively, and allow for family reunification and for spouses to work.
- Although the principal focus of the Compact is on mobility, and other important international agreements aim more directly at drivers and root causes of much migration, the Compact needs to say something too.
- The Compact must speak of all migrants, explicitly, including the undocumented.
- Safe, orderly and regular migration requires safe, orderly and regular *inclusion*, which means access of migrants, regardless of status, to public services at the same level as nationals, including justice, education, healthcare,

with firewalls that protect them and their family members from the enforcement action against them when they access those services.

- The “Global” Compact must recognize and address *regional* particularities and priorities, not ignore or flatten them

Key redlines:

- Whether binding or not, the Global Compact cannot undermine existing conventions, rights, binding obligations and standards. Additional care must be taken to not support documents or commitments that exclude migrants.
- No *refoulement* of refugees, victims of torture, of children without best interest determination, or anyone to places where their human rights would be gravely violated, including victims of human trafficking
- No detention of children for immigration purposes
- No labour visas tied exclusively to one employer
- No enforcement action against migrants of any kind or their family members for exercising universal rights to public services including justice, education and healthcare

2. What concrete mechanisms (i.e. policies, practices, partnerships...) specific to your theme exist, existed or should be developed to promote safe, orderly and regular migration, and in a scenario of a graduated 12-year timeline of implementation, where could the implementation of the mechanisms mentioned above be placed; after 2, 7 or 12 years (ie shorter, medium or longer-term).

<i>Mechanism</i>	<i>Short, medium, or long term?</i>
Best interest determination for children	Set commitments for achievement by increasing numbers of governments, e.g., 10 in 2 years; 50 in 5 years; all by 2030.
Pathways to regular residence	Same as above
Firewalls	Same as above

3. What are the **two questions** on this theme we want to ask governments in Common Space?

Question 1: What is the current thinking on the Compact being binding or not, in whole or in part?

Question 2: Even if the Compact is not binding, what will happen if some governments are willing to agree and go ahead with an ambitious Compact, or pieces in it, but not all governments?

Inspiring quotes

If you like, please provide one or **two quotes** that you heard during the session that you found inspiring. The sessions follow Chatham House rules, so please either ask for approval to name the speaker/organization or put “anonymous”.

- “Given the lack of clarity and growing exhaustion of governments and others in the enormous number of processes on the Global Compact right now, there is great opportunity for civil society to step forward right now with a vision, voice and strategy for what the Compact should be.”
- “We need to have a long-term vision of what is needed for decent human mobility. Short-term or medium-term is not enough.”
- “The key is to not to repeat but to translate existing conventions, rights, standards and commitments into concrete implementation.”
- “‘Orderly’ migration does not mean militarized, securitized, and criminalized.”
- “Above all the Compact should take a *solutions* approach. Regularization is the missing solution to much of the challenge in human mobility today. And safe, orderly and regular *inclusion*.”

1 July - COMMITMENT DAY / Civil society commitments towards and beyond the Global Compact for Migration

1. What 2 strategic steps or actions does the group suggest civil society take on this issue in the next 6 months, including towards the Global Compact for Migration; if relevant.

<p>First strategic step or action in the next 6 months</p>	<p>Both in our own individual organizations and networks <u>and</u> collectively, take forward some of the full-and-small group work in these two Green Room sessions to develop, share and advocate concise lists of 8-12 key issues for the Global Compact, with related mechanisms aimed at operationalizing, not just re-stating, rights, obligations, standards and commitments. <i>This is urgent: right now and in the months leading to the states' Stocktaking conference for the Migration Compact in Mexico 4-6 December 2017.</i></p> <p>The process of developing our individual and collective lists of issues should include:</p> <ul style="list-style-type: none"> • attention to important and influential work already done, e.g., the <i>2035 Report</i> of the François Crépeau, Special Representative on the Human Rights of Migrants; the <i>Sutherland Report</i>; the <i>Recommendations for Addressing Women's Human Rights in the Global Compact</i> developed by UN Women (November 2016); and the ongoing work of OHCHR and the Global Migration Group on <i>Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations</i> • consideration of the Convergence Matrix, developed by ICMC for the 2017 GFMD CSDs • consultations within our own organizations, networks and globally • regional consultations, including those being organized between August and October under the <i>Modalities Resolution</i> <p>The lists of issues should include:</p> <ul style="list-style-type: none"> • a clear case for why a new Compact matters for real people and countries on the ground • baselines—i.e., what we consider essential • red lines—i.e., what we find unacceptable; the “non-negotiables”. • common messages. Here terminology must be precise and consistent (e.g., use of the terms undocumented or irregular migrant; and what we mean by regular or legal migration, regularization, circular migration, return, monitoring, etc.) <p>Issues with strong Green Room convergence [full group 29 June + two breakout groups 1 July]:</p> <ol style="list-style-type: none"> 1. The human and labour rights of migrants regardless of status 2. Return—which must be addressed in context; i.e., addressing issues of deportation/forced and less-than-voluntary returns different from those of reintegration, e.g., returning labour migrants. “Return, readmission, reintegration” is not one bundle. See also Wies Maas <i>Address to GFMD Common Space 2017</i>, point 6. 3. No criminalization of migrants, including putting an end to immigration detention, or move to community-based alternatives to detention 4. Access to justice—including not just criminal justice system and due process, but also mechanisms for remedy and redress; portable justice (so there are not jurisdiction gaps) 5. Access to services for migrants regardless of status—including health, education, shelter, firewalls for protection of irregular migrants 6. Facilitating and expanding regular (or “legal”?) migration channels, including regularization (even as alternative to deportation), pathways to regularization, pathways out of irregularity 7. Human rights of migrants in transit and at borders 8. Root causes /drivers of migration, including climate change 9. Women in migration 10. Children in migration 11. Implementation, review and accountability 12. Funding mechanisms <p>Other important issues to address: violence against migrants, migrant issues beyond access to services, support migrant rights defenders (principle 18 of OHCHR-GMG <i>Principles and Guidelines</i>), and the need for migrants to have access to information in practice.</p> <p>Also, further examine hard questions, including these raised in the Green Room:</p> <ol style="list-style-type: none"> 1. Is right or productive to advocate for the Compact be binding, in whole or part? 2. Now that IOM is part of the UN system and leading in so many of these migration policy processes and in migration on the ground, should civil society advocate for the Compact to give IOM a formal protection mandate (if so, what would it look like)?; 3. Should/how should the Compact talk about internally displaced persons (IDPs)? 4. Should/how should the Compact talk about root causes and drivers of migration? 5. How does/should the Migration Compact interact with the Refugee Compact?
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	<p>6. In what real and sustainable ways would civil society engage in implementation and monitoring of the Compact?</p> <p>7. When/for what reasons might civil society withhold support for a proposed Compact?</p>
Second strategic step or action in the next 6 months	<p>Refine, consolidate, and mobilize collective advocacy on the most common key issues and mechanisms in a short, clear format:</p> <ul style="list-style-type: none"> • if possible, e.g., 4 sides of paper, like the <i>5-year 8-point Plan</i> of civil society for the 2013 UN High-level Dialogue on International Migration and Development) • With a format of goals, targets and timelines like in the <i>Child Rights in the Global Compacts</i> document circulated in the Civil Society Days and examined in the Green Room.
<p>2. What 2 longer-term strategic steps or actions does the group suggest civil society take to ensure implementation of these commitments, including, but not limited to the “implementation phase” of the Global Compact for Migration.</p>	
First strategic step or action in 2018	<p>Mobilize a direct-with-governments “capitals strategy” for advocacy at home, with national decision-makers, beginning with a targeted list influential states worldwide</p>
Second strategic step or action in 2018	<p>Maximize advocacy in connection with the formal negotiations of the Compact at the UN in New York, beginning January 2018:</p> <ul style="list-style-type: none"> • both by individual organizations and networks (the more the better) and collectively • Including outside the formal process itself, i.e., direct-with-governments. It is a HUGE mistake to think that “civil society is not part of the negotiations” or negotiations phase that starts in January!! • with further individual and collective statements as needed
<p>2. Inspiring quotes</p>	
<p>If you like, please provide one or two quotes that you heard during the session that you found inspiring. The sessions follow Chatham House rules, so please either ask for approval to name the speaker/organization <u>or</u> put “anonymous”.</p>	
<ul style="list-style-type: none"> • “Can we come up with a common message of global civil society and a common document that we can bring in the government’s consultations in December 2017? Even if it is not complete, and we won’t all agree, December is our chance.” • “Is a single claim by civil society possible? Or even dangerous? We don’t have to have one single point of view. We still have to publish our own statements in our respective organizations and in smaller groups. But is there one common global civil society document with the <i>most important claims</i> that we can all (more or less) agree on?” • “We don’t necessarily need a single document for all issues. But it is better to have one comprehensive document to identify our red lines.” 	