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**Initial Input to Discussions on the Modalities Resolution for a Global Compact on Safe, Orderly and Regular Migration**

Our comments focus on ensuring the human rights grounding (and compliance) of the Compact and the Role of Civil Society. We appreciate that at this stage this conversation is focussed on process not content but believe that process will shape content. It is therefore necessary to explicitly identify in the modalities resolution how the commitment to a response grounded in human rights law in the New York Declaration will be met (para.5 and Annex II, para.6).

1. **Process that Delivers Human Rights as a Vertical and Horizontal Component of the Compact**

In order to deliver on the commitment in the New York Declaration to the centrality of human rights, we believe that the compact should contain a specific pillar (or chapter) on human rights. This vertical component of the compact would reflect existing international law and draw on expert guidance such as that from the Global Migration Group to guide implementation. In addition human rights should be addressed horizontally as an element of the other pillars (or chapters) of the compact.

* 1. Consultations

To inform this the preparatory/consultative phase should include a specific consultation on human rights and include human rights as an element in any other thematic consultations and any regional consultations. The modalities resolution should recognise the competence and expertise of human rights Treaty Body Members and Human Rights Council Special Procedures with relevant expertise. We recommend that they be invited to participate and that resources be provided to enable this.

This should not be limited to the Special Rapporteur on Migrants but should also include Special Rapporteur on Internally Displaced Persons, the Special Rapporteur on trafficking in persons, especially women and children and other relevant Special Procedures such as Special Rapporteur on the Right to health and the Special Rapporteur on violence against women.

The Office of the UN High Commissioner for Human Rights should be resourced to coordinate a thematic consultation on human rights and be resourced to enable inputs to any regional or other thematic consultations.

1.2 Use of Existing Standards

As the New York Declaration acknowledges, relevant legal frameworks exist. The preparatory phase should include reference to existing international law, including the soft law generated by the Human Rights Council in its resolutions and reference back to the resolutions of the Commission on Human Rights on human rights and mass exodus. Reference should also be made to reports from the Office of the High Commissioner for Human Rights, Special Procedures’ reports and the Concluding Observations, General Comments and jurisprudence of the Treaty Bodies.

1.3 Use of Existing Processes – Human Rights Council

As the UN’s principle human rights body, the Human Rights Council, should make substantive contributions to the development of the Global Compact. There are opportunities to discuss the human rights dimension of the Global Compact in the Human Rights Council’s programme of work for 2017:

* Enhanced Interactive Dialogue on the human rights of migrants in the context of large movements (March 2017)
* Oral update from the High Commissioner on the development of principles and guidelines on the human rights protection of migrants in vulnerable situations (March 2017)
* Panel on unaccompanied migrant children and adolescents (June 2017)
* Interactive Dialogue with the Special Rapporteur on Rights of Migrants (June 2017)

We recommend that the process envisage taking into account the content of these discussions and any substantive input that the Human Rights Council decides to make (we recommend that States lead or support initiatives to turn these discussions into substantive input from the Council[[1]](#footnote-2)).

1. **Civil Society Involvement**

Civil society are a key partner in the development and delivery of the Global Compact. This role should be reflected in the modalities at all stages of the process. This includes not just the opportunity to participate in consultations but a formal role in designing their content; not just the opportunity to comment on elements or the zero draft but a formal role in helping determine and draft these. The negotiation will necessarily be a State-led process but there are existing and previous models of negotiation that allow NGO input or at least observation of the formal negotiation process.

*Consultations*

In addition to a role in planning consultations and in light of the wide range of expertise and experienced the modalities should enable the broadest possible inclusion of civil society and migrant perspectives. We recommend drawing on existing modalities for open participation, for example the Human Rights Council’s Forum on Minority Issues, Forum on Business and Human Rights and Forum on Democracy and the Rule of Law.[[2]](#footnote-3) The process should include various forms of civil society participation including through written input.

*Negotiations*

We recommend drawing on existing practices that enable civil society participation in or at least observation of negotiations. The Working Group tasked with developing consensus on a Declaration on the Rights of Indigenous Peoples included direct participation of Indigenous Peoples throughout the process. Other useful practices include in Geneva where civil society can participate in informal consultations on draft resolutions for consideration by the Human Rights Council, this enables those leading the consultation to draw on their technical expertise. Less open but enabling greater transparency, in Vienna at the Commission on Crime Prevention and Criminal Justice formal negotiations take place in the Committee of the Whole which accredited NGOs can observe.

1. **Informal Discussion Spaces alongside Formal for Negotiations**

We recognise the challenges of short time frame for negotiation of a framework for a broad, complex and contentious set of issues but call on all stakeholders to remain ambitious and to learn from past negotiations. We produced a briefing to provide examples of how successful conclusions were reached in complex negotiations: [*Moving Forward in International Negotiations: Four Innovative Examples*](http://www.quno.org/resource/2014/6/moving-forward-international-negotiations-four-innovative-examples)*.* Factors identified include innovative leadership from a small group of States, openness to input from technical experts and affected populations and the use of informal discussion spaces alongside formal negotiations. We recommend that the co-facilitators either build such informal fora into their process or keep space for them to be used if needed.

1. Similar processes include the Human Rights Council mandating an OHCHR Study and a Panel and summary report to be transmitted to the UN General Assembly Special Session on the world drug problem in 2016. [↑](#footnote-ref-2)
2. For each of these prospective participants seek accreditation from the secretariat (in this case OHCHR) and do not need to be from ECOSOC accredited NGOs or from formally constituted organisations. For the Forum on Minority Issues this enables the participation of affected groups who may feel that their concerns are not adequately understood or addressed by others. [↑](#footnote-ref-3)