

## **U.S.-Canada Regional Civil Society Consultation**

Sept. 25 & 26, 2017

Washington, DC

### **A Report**

#### ***Can the UN Global Compact on Migration Advance Migrant Rights?***

##### **Consultation co-organizers:**

AFL-CIO, Alianza Americas, National Network for Immigrant and Refugee Rights, and the Solidarity Center

##### **OVERVIEW**

Over 80 civil society representatives from across the United States and Canada participated in an informative and engaging discussion of key migration-related themes towards the UN Global Compact on Migration. Some 60 organizations and networks, from immigrant and refugee communities, labor, faith, legal, human and civil rights, humanitarian and other sectors were represented.

For most of the participants, the consultation provided the first opportunity to directly engage in discussions about the Compact, and to better understand the backdrop of the Compact and its significance for future global migration policy and governance.

The meeting included an insightful overview of the Compact progress from Ms. Suzanne Sheldon of the International Organization for Migration (IOM) and a video message from Ms. Louise Arbour, the UN Special Representative for International Migration.

An introductory panel provided an overview of the process and issues. Speakers noted with concern, an increased emphasis by states on “returns”—both voluntary and involuntary—of migrants who have travelled in irregular status, as well as, persistent proposals for temporary work programs as opposed to other avenues, such as regularization or employment visas offering access to permanent residence.

The panelists also spoke to the “closing space” for civil society engagement: the limited access (and capacity) to participate in international convenings—mainly organized for UN member states—and asking, “Is anybody listening to what we do say?” They also noted that for civil society, “there is a difference between having access and having influence”.

A second panel addressed, “*Migrant Rights in North America: Challenges and Emerging Practices*”. Presenters from the U.S. and Canada, from migrant communities and labor, spoke to issues on the ground—the critical concerns of both immigrant and refugee

communities in both countries. They described issues ranging from the cancellation of the “DACA” (Deferred Action for Early Childhood Arrivals) program in the U.S.—which as provided temporary relief from deportation and work permits for over 800,000 young undocumented immigrants—to the criminalization of immigrants at borders and in the interior. Likewise, in Canada, temporary work permits are tied to one employer in specific job sectors, undermining labor protections and placing these workers at greater risk of exploitation. Servicing of immigrant programs remains seriously under-resourced. And while Canada has had a reputation as a refugee-friendly country, it has not withdrawn from the Safe 3<sup>rd</sup> Country Agreement with the U.S. and is sending mixed signals, for example, to Haitian and other refugees seeking safe haven in Canada due to the increased hostility of U.S. policies.

Acknowledging a wide range of challenges, including racist and xenophobic backlash and policy directions, panelists offered these reflections for civil society:

- *“Go broad and deep, translate symbolic concepts like sanctuary cities into meaningful offerings, and hold politicians accountable”.*
- *“How do we take a radical analysis and communicate it to policy makers...we need to expose the profitability of detention, and the element of race needs to be clear. Maybe civil society needs to be less civil”.*
- *“Educate people. Solidarity is not an act of charity. We have mutual objectives—we are connected but we need to help people understand that”.*
- *“Our vision needs to ground us, and we need to plant the seeds for a larger vision. We need to create an infrastructure that leads us to our vision, to amplify our own organizing”.*

Tefere Gebre, an Executive Vice-President of the AFL-CIO and a former refugee from Somalia, greeted the participants and shared his own story, which included living in a refugee camp in the Sudan. “This country is an experiment, towards a more perfect union. We all have to stand up and fight.”

### **Breakout Sessions: Principles, Proposals and Concerns**

In formal and informal discussions and assessments across a range of civil society organizations over the past year, a number of key principles and policy issues have been identified with clear consensus. These issues include:

- Ending the criminalization of migrants
- Challenging border closures and externalization of border enforcement and securitization
- Ending the detention of migrants, including the detention of children and families
- Ensuring that firewalls are in place that separate access to services from immigration enforcement
- Ensuring effective access to justice
- Respecting the rights of irregular migrants
- Creating paths to regularization for irregular migrants

- Ensuring that gender issues are addressed across the Compact
- Ending xenophobia and racism through laws, policies and practices

With these issues in mind, participants broke into five broad breakout groups to share information, experiences, and opinions—emerging with unified proposals on principles and recommendations. Participants also identified issues where there was continuing concern and/or need for further assessment and debate.

## **Labor rights and labor recruitment**

### *Key Principles:*

- The Global Compact should be a “peoples’ compact”—reflecting the interests and rights of people.
- It must respect the freedom of people to defend their human and peoples’ rights.

### *Proposals:*

- More expansive citizenship definitions that embrace bi-nationalism and mobility back and forth between countries.
- Labor standards for all workers should be elevated and include freedom of association and collective bargaining.
- There should be a priority for legalization and for family unity.
- Temporary work programs that divide families should be prohibited; more regular forms of migration should be created that include paths to long-term residency.
- Temporary labor agreements must be transparent and include mechanisms to protect migrant rights, including the right to collective bargaining.

### *Concerns/Areas to Watch in the Compact:*

- Challenge the use of circular migration as a purported solution to the root causes of migration and labor demands in destination countries; rather, address the structural inequalities that drive migration.
- Need to discourage, discontinue enforcement regimes that undermine workers’ rights.

## **Border enforcement - human rights at borders**

### *Key Principles:*

- Respect for human dignity, the protection of individuals and families, and maintaining family unity
- Human rights for all must be upheld at international borders; they are not zones of exclusion when it comes to human rights.

### *Proposals:*

- Establish mechanisms to ensure accountability, such as a publicly accountable independent commission.
- Expand the spectrum of legal migration channels that are proportionate to the need.

- Develop greater professional capacity to respond to the humanitarian needs at the border, in particular taking into account age, gender, cultural, language ability.

*Concerns/Areas to Watch in the Compact:*

- Avoid policy language that would enforce or codify migration deterrence strategies.
- Human rights should not be sacrificed in the name of sovereignty.

## **Detention and deportation issues**

*Key Principles:*

- Migrants should not be detained for administrative immigration violations.
- End the criminalization of migrants.
- Regularization should be a key concept in the Compact.
- Family unity should be maintained in the country of choice.
- Access to due process; legal representation for migrants should be provided at no cost by governments.

*Proposals:*

- End migrant detention.
- Governments should divest from detention and invest in community building.
- UN oversight is needed for compliance with international standards, including monitoring of court statistics and country on-the-ground conditions.
- Eliminate the revocation of citizenship.
- Place a moratorium on deportations to countries saddled with unjust military, trade, climate policies.
- Prohibit government contracts with private corporations for enforcement, detention, monitoring of migrants, which builds profit motive into enforcement.

*Concerns/Areas to Watch in the Compact:*

- The preamble to the Compact should address causes of forced migration, including migration for work.

## **Regularization (legalization) and other forms of regular migration programs**

*Key Principles:*

- Legal pathways for migration must be increased.
- Any regularization program should include a gender equity lens.
- The right to family unity and reunification should be entrenched, as well, birth right citizenship.

*Proposals:*

- Regularization programs should be provided for certain groups, for example, victims of trafficking or gender-based violence.

- “Firewalls” should protect migrant access to services and due process in the face of immigration enforcement practices.

*Concerns/Areas to Watch in the Compact:*

- The lack of recognition of structural inequalities that are driving migration.
- Closed workers permits need to be redlined.
- Migration bans, for example, based on country or gender, should be redlined.

**Refugees, asylum seekers, temporary protections**

*Key Principles:*

- No deportation to nations that are suffering economically, or in chaos.
- Access must be provided to healthcare, education, legal counsel, family unification.
- There must be clarity and transparency in the allocation of foreign aid.

*Proposals:*

- Avoiding placing migrants in further vulnerability as they transit.
- Private companies should not profit from migration enforcement programs.
- Greater government responsibility for the wellbeing of deportees in the reintegration process.

*Concerns/Areas to Watch in the Compact:*

- The definition of “refugee” needs to be updated. Many refugees and forced migrants share circumstances, transits, needs.
- Lack of analysis of root and structural causes of migration.
- Lack of detailed and articulated strategy on addressing environmental factors.

**Reflection on Gender Issues**

Monica Hernandez, Director of the Southeast Immigrant Rights Network in the U.S., served as a Rapporteur on Gender for the consultation and provided these observations:

- Every aspect of the Compact can have a gender lens applied to it. For example, the economic system is gendered, and limits women’s pathways of migration—and causes women to migrate. Sexualized and gendered violence are causes of migration. Women are criminalized when they come to work on temporary visas and then work out of the confines of those visas.
- Women’s migration can be limited in some countries to specific labor deemed “women’s work”—such as domestic work, caregiving, maintenance and hotel work—and heightening labor exploitation.
- Family unity: we need a broader definition of the traditional heterosexual family. Any pathway needs to include the family, but we also need to be careful about how we define the family. We cannot accept narrow categories that allow the deportation of “non-traditional” families.

## Summary Reflections

Rapporteur Carol Barton of United Methodist Women provided reflections at the end of the first day, describing the many shared unities and noting:

- Migration is a gendered, racialized and class-based system, in every way. There are class realities as to who gets in, who gets benefits, and who does not.
- Labor supply and demand can drive much of migration and current migration policy. *“We want your labor...but not you.”*
- How can civil society frame the discussion and have an impact on government deliberations, where governments have shrunk the space for contributions and set the terms?
- There is difference between civil society having “access” and “having influence”—what does this mean going forward?
- We need to build movement across sectors and intersections, in the places of implementation.
- More conversation is needed on several issues—such as guest worker/temporary worker programs and in the U.S. and Canada contexts. We need different strategies given different realities.
- Concerning regularization—some migrant workers want regular status, while some do want to return home.

## Going forward – Civil Society Role and Input to the Compact Process

Beyond the “stocktaking” moment in Puerto Vallarta in December 2017, civil society can continue to play an important role towards the development of the Global Compact on Migration that is forward-looking and meets a high human rights standard with regards to migration and migrants.

The “negotiation” phase of the Compact process will begin early in 2018. Civil society, particularly those in countries and global regions, can continue to provide its input through:

- Participation in national consultations
- Engaging key members and offices of national governments
- Providing inputs to:
  - Special Representative to the Secretary General for International Migration, Louise Arbour, and to the Compact Co-Facilitators, Ambassador
  - H.E. Mr. Jürg Lauber, Ambassador and Permanent Representative of Switzerland to the United Nations, and H.E. Mr. Juan José Gómez Camacho, Permanent Representative of Mexico to the United Nations, co-facilitators of the intergovernmental consultations and negotiations of the global compact.
  - Special Rapporteur on the Human Rights of Migrants, Migration, Felipe González Morales
- Raising awareness among organized migrants

- Planning to monitor and engage in a variety of activities during the 2018 negotiation phase, including multi-stakeholder hearings that will be convened in New York.

**Participants in the U.S.-Canada Regional Civil Society Consultation will continue to share information and coordinate efforts as possible. For more information about the Consultation or next steps, please contact [consultation@nnirr.org](mailto:consultation@nnirr.org).**

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Many thanks to Helena Olea and to Carol Barton, our rapporteurs for the consultation, for their detailed note-taking and keen observations, and to Monica Hernandez, our rapporteur on gender, and who lifted up a critical perspective on how we address gender perspectives in civil society and in the Compact.

## ADDENDUM

### Background to the Global Compact on Migration

Over the past several years, the growth of large-scale, mass movements of migrants and refugees, including horrific stories of thousands of people drowning in the Mediterranean and suffering through long and dangerous journeys—as well as public backlash to these “newcomers”—spurred the United Nations to convene a High Level Summit on Refugees and Migrants in New York, in September 2016. Together with year-long preparations, the Summit produced an outcome document called the “New York Declaration for Refugees and Migrants”.

The New York Declaration included a number of commitments for both migrants and refugees, along with separate sets of commitments for migrants and for refugees. In particular, the Declaration called for the development of two “global compacts”—one on refugees, and one on migrants, for “safe, orderly and regular migration”.

The Global Compact on Refugees, calling for a “comprehensive refugee response framework,” is being developed under the auspices of the Office of the UN High Commissioner for Refugees (UNHCR).

The UN Secretary General has appointed Ms. Louise Arbour to act as the Special Representative for International Migration and as the Secretary-General of the international conference on international migration, to be in Morocco in December 2018. The intergovernmental consultation process has been co-facilitated by H.E. Mr. Juan José Gómez Camacho, Permanent Representative of Mexico to the United Nations, and H.E. Mr. Jürg Lauber, Ambassador and Permanent Representative of Switzerland to the United Nations.

Multiple stakeholders have been involved in the preparatory process, which in this past year has included six UN “thematic” hearings:

1. **Human rights of all migrants**, social inclusion, cohesion and all forms of discrimination, including racism, xenophobia and intolerance (May 8-9, Geneva)
2. **Addressing drivers of migration**, including adverse effects of climate change, natural disasters and human-made crises, through protection and assistance, sustainable development, poverty eradication, conflict prevention and resolution (May 22-23, New York)
3. **International cooperation and governance of migration**, including at borders, on transit, entry, return, readmission, integration and reintegration (June 19-20, Geneva)
4. **Contributions of migrants and diasporas** to all dimensions of sustainable development, including remittances and portability of earned benefits (July 24-25, New York)



5. **Smuggling of migrants, trafficking in persons and contemporary forms of slavery**, including appropriate identification, protection and assistance to migrants and trafficking victims (September 4-5, Vienna)
6. **Irregular migration and regular pathways**, including decent work, labour mobility, recognition of skills and qualifications and other relevant measures (October 12-13, Geneva)

In addition, seven regional civil society consultations were organized in Asia, the Middle East and North Africa, Africa, Latin America and the Caribbean, Europe, U.S.-Canada and the Pacific, all with financial support from the International Organization for Migration (IOM).

Completing the “consultation phase” of the Compact development process is a “stocktaking” meeting in Puerto Vallarta, Mexico, on December 4-6, 2017, with member states and other stakeholders, including civil society representatives, who will also meet separately prior to the stocktaking meeting. An initial draft of the Compact, known as the “0” draft, is expected by the end of the January 2018, to be followed by months of intergovernmental negotiations and draft refinements. The Compact is targeted for adoption in an international conference on migration in Morocco in December 2018.

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For more information and UN updates on the Compact process visit the UN Refugees and Migrants website: <https://refugeesmigrants.un.org/>

International Organization on Migration (IOM) website section on the Global Compact on Migration: <https://www.iom.int/global-compact-migration>