

UN ESCAP Regional Consultation Global Compact for Safe, Orderly and Regular Migration

Statement of Asia and the Pacific

Migrant Forum in Asia

6-8 November 2017

Excellencies and colleagues in advocacy, good afternoon.

What I am presenting is a result of the process that civil society in Asia has drawn out after a series of consultations and validation processes this year at the local, national, and regional level, including Berlin in July, Bangkok in August, Kathmandu in September, Manila in October, and yesterday here in Bangkok, until the next couple of days. In Asia, we would like to highlight seven points:

First, we, the civil society in and from Asia, call upon the attention of the Member States and strongly assert that the global compact for safe, orderly, and regular migration should adhere to and build upon the New York Declaration for Refugees and Migrants. We call for an effective implementation and monitoring of the UN core international human rights treaties, the ILO conventions and core labour standards, including other global commitments as well as other UN Conventions and Protocols relevant to migrants and members of their families.

Second, there is need for non-discriminatory and gender-responsive policies that take into consideration the different needs, vulnerabilities and capacities of all migrants and refugees, and ensure the full achievement of the rights and empowerment of women and girls. We call for the recognition of the importance of women as part of decision-making processes, including migrant women organizations and migrant women themselves. We recognize the initiatives taken by the Gulf countries, such as the United Arab Emirates, in bringing in migrant domestic workers under the labour law. We also recognize the Philippines for being the first country in Asia to ratify the International Labour Organization (ILO) Convention 189, and we urge other countries of origin to likewise do the same.

Third, we cannot over-emphasize the importance of addressing the high social cost of labour migration to families and particularly children of migrants who are left behind or in the countries of destination.

Fourth, ensure the right to freedom of movement and full access for all migrants and refugees to services, including education, health care, safe shelter and housing, sanitation and food security; provide residents with social security and with portability of earned benefits, through bilateral and regional cooperation and transparent social security agreements between countries.

Fifth, we are calling for all actors to adhere to international labour standards and existing guidelines and principles on business and human rights for ethical recruitment and to shift to an employer pays model.

Sixth, undocumented and migrants in irregular situations, and people seeking asylum should not be criminalized nor detained. Documentation status is an administrative issue and not a criminal offense. There should be access to pathways for regularization programs and permanent residence for undocumented migrants, and independent access for migrant women. In this regard, we recognize the initial steps of Bahrain to address the sponsorship system as well as the paradigm shift in trying to address irregular migration. In addition, rights of victims and survivors of human trafficking, smuggling, illegal recruitment, and forced labour should be respected and protected in accordance with international laws, standards.

Seventh, States should provide access to justice and due process at all stages of migration, including the provision of free legal aid and access to gender-responsive and culturally appropriate legal representation, counselling, information and other material assistance, including interpretation and translation services to all migrants. By 2022, ensure that all states have safeguards in place in law and policies between immigration enforcement and public services and the justice system (known as “firewalls”), thereby allowing all migrants and refugees regardless of status access to documents, services, and the justice system without fear of detection, detention or deportation, including to report crimes and seek redress. Make access to justice portable, so that migrants and refugees can access justice in the jurisdiction concerned even after they are no longer in the country. Upon exhaustion of national justice processes, access to regional or international mechanisms should be provided. Further, bilateral agreements must be reviewed from an access to justice lens.

May we also share the key messages from the first ever Pacific Islands’ CSO consultation on migration. Herewith, I am highlighting five points on their behalf:

First, aligning with their Pacific values of reciprocity, resilience, consultation, dialogue, we support that stronger partnerships should be fostered within and among stakeholders and actors in the Pacific countries that facilitate and ensure inclusive safe, orderly and regular Pacific migrations; the Pacific voice should be heard in all pertinent dialogues and processes governing climate change induced migration at the national, regional and global levels corresponding with binding instruments.

Second, the Pacific believes in their principles, philosophical tenets, protocols, processes and paradigms that are the foundational pillars that construct the respective worldviews of the sovereign nations and associated territories of the Pacific region. They remember, value and uphold the narratives of their ancestors, strengths of their wisdom holders and migration warriors that have passed on. They believe that their relational worldview emphasizes the spirit and spirituality of their peoples.

They support that knowledge is holistic, cyclic, and dependent upon relationships and connections to living and non-living beings and entities; and that the land and Ocean is sacred. Migrations in and out of the region affects the equilibrium of these relationships.

Third, historical legacies of colonization shaped the first waves of forced migration in the Pacific including black-birding, nuclear testing, militarization, and illegal

occupations of Indigenous lands¹. The Global Compact for Migration must acknowledge that the first step in resolution of their historic legacies requires the global community to recognize root causes, which further perpetuate global ideologies of neo-liberalism and capitalism resulting in genocide of their most vulnerable. Through the recognition and resolution of historical legacies, Small Island Developing States (SIDS) have the potential to offer solutions toward safe, regular, and orderly migration while maintaining sovereignty and Indigenous rights.

Fourth, climate change induced migration is a critical concern for Pacific Island countries. It poses existential threats such as - loss of land due to coastal erosion and flooding, self-determination, loss of access to water and compromised food sovereignty, and the uprooting and displacement of Pacific people who are spiritually and culturally connected to their land and sea. This is reflected in the burial of umbilical cords in the land and the birthrights of Pacific people that signify the deep relationship they have with the land and ocean. Pacific Island governments need to prioritize climate change induced migration and to push for its recognition and inclusion in the Compact.

Fifth, Pacific SIDS are vulnerable to drivers of migration, including adverse effects of natural hazards and human-made crises, if they are not included in dialogues towards collective resolution. Pacific governments must rethink and mobilize resources, appropriate mechanisms and technologies for best protection and assistance, sustainable development, poverty eradication and conflict prevention underpinned by Pacific values. The Rights and Dignity of the Pacific People and those integrated into their island communities shall be paramount in all aspects of migration schemes.

Our issues in Asia resonate with those from the international civil society.

Member States should develop global and national development plans, strategies and funding that explicitly tackle the drivers of forced displacement and the causes that push migrants into vulnerable situations. In line with achieving the 2030 Agenda for Sustainable Development and the Paris Climate Agreement, this includes tackling factors that give rise to conflict, violence, insecurity and injustice, persecution, human rights violations, and structural inequalities, including, poor governance, unfair trade agreements, illicit financial flows and arms trade, and climate change and environmental degradation.

By 2020, there must be adoption guidelines and principles on residency and regularization of migrants; for migrants in vulnerable situations; and for alternatives and cooperation on return and reintegration.

All stakeholders and actors must go beyond the adoption of the Compact in 2018 and be well-aware that it is a continuing process towards the progressive realization of decent work and living conditions, human rights-based temporary migration program and regularization pathways, and address drivers of human mobility.

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In West Papua; and the Enjebi community of Enewetak Atoll in the Marshall Islands, who experienced devastating loss as a result of nuclear testing reverberating through generations as internal displacement, famine, ill health, and disrupted social structures

Touching on the governance of migration including implementing mechanisms, we would like to emphasize the regional consultative processes on their engagement with civil society in hopes that it will further engage with civil society in a substantive multi-stakeholder approach, and we look forward to the adoption of the ASEAN Consensus Document on the Protection of Migrant Workers this month.

Finally, we strongly urge the UN leadership to develop long-term strategies and capacity for facilitating human mobility, development and human rights, to realize international cooperation and responsibility-sharing among states, to undertake rapid and rights-based responses to migrants and refugees in need, and to translate global commitments into national targets and strategies. Strengthened leadership includes further integration of International Organization for Migration (IOM) into the UN-system, and alignment of its mandate and operations with the UN Charter and the IOM-UN, with the Global Forum on Migration on Development (GFMD) as one of the starting points for responsibility-sharing.