

NATIONAL CONSULTATION

RESULTS OF THE NATIONAL CONSULTATION PROCESS OF EL SALVADOR FOR ESTABLISHING A POSITION REGARDING THE

# GLOBAL COMPACT

FOR SAFE, ORDERLY, AND REGULAR MIGRATION (GCM) 



MINISTERIO DE RELACIONES EXTERIORES  
DE EL SALVADOR

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## INTRODUCTION

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On 19 September 2016, within the framework of the LXXI Period of Sessions of the United Nations Organization, the New York Declaration for Refugees and Migrants was adopted, thus commencing an inter-governmental negotiation process leading to the adoption, at an inter-governmental conference to be held in 2018, of a Global Compact for Safe, Orderly, and Regular Migration (GCM).

The New York Declaration acknowledges that: "...we are witnessing in today's world an unprecedented level of human mobility. More people than ever before live in a country other than the one in which they were born. Migrants are present in all countries in the world. Most of them move without incident. In 2015, their number surpassed 244 million, growing at a rate faster than the world's population. However, there are roughly 65 million forcibly displaced persons, including over 21 million refugees, 3 million asylum seekers, and over 40 million internally displaced persons."

The GCM is destined to address migration at the global level considering all dimensions of the migratory process, including human rights, climate change, development, and the humanitarian dimension, as well as taking into account the priorities, perspectives, and experiences of governments and other relevant actors in all regions of the world with respect to migration.

On 30 January 2017, the United National General Assembly issued various guidelines regarding the GCM inter-governmental negotiations. The guidelines establish that there will be a preparatory process consisting of three phases: consultation, assessment, and inter-governmental negotiations. The resolution invites Member States and other stakeholders to contribute to the preparatory phase by way of regional and sub-regional consultation processes. In view of the preceding, the Government of El Salvador, by way of the Vice-Ministry for Salvadorans Abroad, requested cooperation from the IOM for implementing a national consultation process in order to formulate a national position of an inter-institutional nature to contribute to Phase I of the preparatory process for the Global Compact.

A training and consultation event was organized and subsequently held on 7-8 September 2017. The Salvadoran Ministry of Foreign Affairs convened governmental officials from various institutions and directed this event, the objective of which was to define the country's position regarding the different themes that are being addressed as part of the construction of the GCM. The IOM was in charge of the methodology and moderation of the event.



The event was inaugurated by the Vice-Minister for Salvadorans Abroad, Liduvina Magarín, and consisted of a training session that included an introduction to the GCM, and a series of round table discussions aimed at dialoguing and reaching consensus regarding the definition of the concepts of safe, regular, orderly, and responsible migration (the central themes of the GCM). The event agenda included six thematic working discussions, through which input was obtained from the participants for purposes of developing inter-institutional guidelines for defining El Salvador's national position regarding the GCM. The discussion at each round table centered on sub-themes that represent priorities for El Salvador, in light of its migratory reality.

## CONCEPTUALIZATION OF ESSENTIAL TERMS FOR THE GLOBAL COMPACT

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As its name indicates, the Global Compact seeks to contribute towards achieving safe, orderly, and regular migration. Goal 10.7 of the Sustainable Development Goals (SDG) coincides with this objective, including as well the topic of responsible migration. Neither the New York Declaration, however, nor the SDG contain a definition of these terms.

In an effort to clarify the GCM's central objective, the inter-institutional encounter included a space for the participants to dialogue on the meaning said terms have for them and their country, keeping in mind the reality and priorities of El Salvador. The results of that dialogue are presented below.

### 1. Orderly Migration

Migration takes place in an orderly fashion when undertaken in accordance with the procedures established by the countries of origin, transit, and destination. These procedures must adhere to the following principles: **pro-person, equality, equity, non-discrimination, promotion of integration, legal security, reciprocity, co-responsibility, and social protection.**

In addition, in order for migration to occur in an orderly manner, the international community must commit to harmonizing national legislation to reflect the international principles and standards related to migration governance.

Furthermore, the international community must commit to complying with the obligations set forth in the international instruments applicable to migration and migrants, as well as the human rights instruments. To that end, it is fundamental that **spaces and mechanisms be created at the global level to monitor and ensure compliance** with said international obligations.

In order to achieve orderly migration, States will have to commit to making migrant populations visible and incorporating them into the formulation of policies, including policies for preventing irregular migration and for migrant integration and reintegration. Specifically, such policies must include measures to provide specialized attention to disabled persons, members of the LGBTI community, children, adolescents, and women, among others.

The participants pointed out that the most significant concrete measures that the international community (including countries of origin, transit, and destination) should implement for purposes of encouraging orderly migration are as follows:

- » **Inform the general population regarding options for orderly migration.**
- » **Create mechanisms to disseminate information regarding the benefits of orderly migration.**
- » **Strengthen and broaden the mechanisms that allow orderly migration.**
- » **Increase investment in the communities of origin of migrant populations.**
- » **Define clearly the needs of each country with respect to migration management and providing assistance to migrants.**
- » **Create adequate information systems for monitoring and gauging the migratory phenomenon.**
- » **Promote agreements or conventions among countries of origin, transit, and destination in order to strengthen protection for the rights of migrants.**
- » **Guarantee the fundamental liberties of migrants in destination countries.**

## **2. Regular Migration**

Although the participants did not establish a definition for regular migration, they affirmed that in order to ensure that regular migration occurs, not only the interests of States should be considered, but also the interests and objectives of persons who migrate or wish to do so.

In addition, in order for regular migration to take place, the international community must adopt the following principles:

- » **The principle that migration is a human right, and as such, States must respect and protect this right.**
- » **The principle of non-discrimination in favor of migrants, nationals, and those who intend to migrate.**
- » **The principle that migratory regularity is a dynamic concept rather than a static one, and thus favoring regular migration implies favoring the normalization of persons with irregular migratory status.**
- » **The principle of promoting accessibility to mechanisms for migratory normalization.**
- » **The right of all persons to live a dignified life.**
- » **The right of all persons to live a life free from violence.**
- » **The principle of special protection for persons in vulnerable conditions.**
- » **The principle of family unity.**
- » **The principle of not separating families, especially in cases involving children, regardless of their migratory status.**
- » **The principle of the best interests of the child**

The participants also considered that, in order to promote regular migration, States should assume the following commitments:

- » **Value protection of the life, integrity, dignity, and well-being of migrants at the time they are authorized to enter and remain in destination countries.**
- » **Create simple, expeditious mechanisms that favor migratory normalization.**
- » **Guarantee access to justice for migrants, regardless of their migratory status.**
- » **Guarantee that children are not separated from their families.**
- » **Ensure integration and free intra-regional mobility.**
- » **Establish an institutionalized UN mechanism specifically in charge of protecting migrants.**
- » **Prevent irregular migration through policies that strengthen ties to the community.**
- » **Reform penal legislation to include as an aggravating circumstance the commission of crimes against migrants.**
- » **Harmonize migratory policies with the policies observed in destination countries.**

### 3. Safe Migration

The concept of safe migration implies the obligation of States to provide assistance and protection to migrants in the face of threats or risks to their life, integrity, and dignity. This means that States are obligated to guarantee the life, dignity, and living means of migrants and their families in countries and communities of origin, transit, destination, and return.

Among the principles that States must subscribe to in order to ensure safe migration are the **pro-person principle, the principle of co-responsibility of all actors, the principle of non-discrimination, the principle of equality, the principle of non-refoulement, the principle of subsidiarity, and the principle of solidarity and cooperation among actors.**

In addition, in order for migration to take place safely, the international community should assume the following commitments:

- » **Acknowledge the right of all persons to migrate.**
- » **Guarantee the right to not migrate for those who wish to remain in their country.**
- » **Facilitate irregular migration.**
- » **Promote circular migration.**
- » **Promote the normalization of the migratory status of irregular migrants.**
- » **Facilitate the integration of migrants in destination countries.**
- » **Review legislation and policies regarding access to public and social services, in order to facilitate access to same for migrants, regardless of their migratory status.**

- » **Formulate policies that offer special protection to migrants, especially those most vulnerable.**
- » **Adapt national legislation to international standards and instruments.**
- » **Develop financing mechanisms aimed at addressing the structural causes that drive migration.**

#### **4. Responsible Migration**

Responsible migration implies considering not only migrants, who should be aware of the dangers, challenges, and limitations of the migratory process, but also other actors such as: the governments of the countries and communities of origin, transit, destination, and return, who should act responsibly when managing migratory flows; international bodies and civil society, who should be responsible for protecting and promoting the human rights of migrants; employers, who are also responsible for the socio-labor conditions of migrants; and members of the communities of origin, transit, and destination, who are responsible for respecting the rights of migrants.

In order for migration to take place responsibly, it is necessary to observe the principles of: **non-criminalization of migration; co-responsibility of all actors involved in migrations; inclusion of migration as a cross-cutting theme in all relevant public policies; unrestricted respect for the human rights of migrants; and non-discrimination, regardless of migratory status.**

In order to promote responsible migration, the Global Compact should call on the international community to assume the following commitments:

- » **Inform persons of their rights as migrants.**
- » **Favor access to basic services for migrants, including returned persons.**
- » **Include the cross-cutting theme of migration and migrants in national policies.**
- » **Guarantee the security, dignity, and rights of migrants.**
- » **Incorporate properly the theme of migration into the work agenda of international organizations and civil society.**
- » **Oversee compliance with the rights of migrant workers on the part of employers.**
- » **Facilitate access to justice for migrants, including restitutionary justice.**



## RESULTS OF THE THEMATIC DISCUSSIONS

### THEME 1 HUMAN RIGHTS OF MIGRANTS

*Social Inclusion and Cohesion and all Forms of Discrimination, such as Racism, Xenophobia, and Intolerance*

For the institutions consulted, the Global Compact must prioritize the following sub-themes of Theme 1: a) the human rights of all migrants; b) social inclusion; and c) all forms of discrimination.

Regarding the sub-theme of the **human rights of all migrants**, the GCM should prioritize the development of commitments in the following areas: protection of the rights of migrants in the countries of origin, transit, destination, and return; protection of the human rights of vulnerable populations (children, adolescents, and women); and prevention of irregular migration, as a mechanism for preventing violations of migrant human rights.

In addition, the GCM should reaffirm the universal nature of human rights, as the acknowledgement of this principle must be a core element of the GCM and the starting point for vindicating the human rights of all migrants, regardless of their migratory status.

This means that migration should be conceptualized and addressed by the Global Compact based on a human rights focus and not one based solely on security. With a human rights focus as a starting point, the participants pointed out that the decriminalization of irregular migration should be promoted. This means that **persons should not be detained simply due to their migratory status**, and that progress should be made in seeking and implementing alternatives to detention.

Along these same lines, emphasis was made on the fact that protection of the human rights of migrants implies guaranteeing their **access to justice**. To that end, it was proposed that a jurisdiction specialized in migratory issues be created to ensure, in a specific and focused manner, the oversight, compliance, and restitution of the rights of migrants.

Therefore, the GCM must assume a series of concrete commitments concerning the human rights of migrants, including principally the review of national migratory legislation and policies in order to harmonize them with international instruments. Furthermore, **it is necessary to encourage transparency at the global level, accountability, and stronger mechanisms for overseeing compliance with State obligations**, as well as to establish information systems that allow the monitoring, follow-up, and oversight of migrant human rights.

Regarding the theme of **social inclusion**, the GCM should call on States to commit to developing policies, programs, and plans for social inclusion, both local and national, in countries of origin and destination, and to replicate relevant good practices, such as the National Council for the Protection and Development of Migrants and their Families (CON-MIGRANTES) in El Salvador.

In line with the theme of human rights, it is also considered that the social inclusion commitments to be assumed under the GCM should include as priorities: the improvement of basic social services for the entire population, in order to reduce irregular migration; the creation of programs for psycho-social attention throughout the migratory process; and the participation of local governments for integrating diaspora communities.

With respect to **all forms of discrimination**, the participants agreed on the urgent need to take measures in view of the increase in racism, xenophobia, discrimination, and other displays of intolerance that the world has seen recently. In light of this situation, progress should be made towards establishing policies for sensitizing and regulating communications media in order to prevent and punish the use of xenophobic and discriminatory language, as well as to raise awareness among the general population to promote the recognition and promotion of cultural diversity and develop mechanisms to prevent xenophobia, especially in educational settings, with the participation of educational authorities.



**THEME 2** MIGRATIONS CAUSED BY THE EFFECTS OF CLIMATE CHANGE OR CRISIS SITUATIONS

*Successful Strategies for Protection and Assistance, Public Policies for Sustainable Development, and Conflict Resolution*

It is notable to emphasize that, on the issue of **migration drivers**, the Global Compact must call on the international community to strengthen attention for vulnerable populations such as children and adolescents, LGBTI persons, women, the elderly, and the people with disabilities.

The discussion on this broad theme concluded that the GCM's objectives should include the creation of policies and programs to serve migrant populations affected by climate change by guaranteeing and protecting their fundamental rights, as well as their access to essential services such as education, healthcare, family reunification, and housing, among others, regardless of their migratory status. In addition, the need was indicated to promote increased financial investment aimed at mitigating the effects of climate change in the principal communities of origin of migrations related to climate change.

Regarding the prevention of **mobility caused by conflicts**, the participants emphasized that the main objective of the GCM must be focused on prevention through actions that promote a culture of peace and respect for diversity.

Along these lines, it was proposed that the term 'natural disasters' be reconceptualized to 'socio-natural disasters,' since the impact of human activity on the environment is what leads an event of natural origin to cause the negative impacts attributed to it. It is also necessary that the GCM call for efforts to educate civil society regarding the areas with greater risk of being affected by climatic events, in order for such information to reach migrant populations.

It is important that the Global Compact address, as one of its central themes, the **internal displacement** caused by 'socio-natural' disasters. The GCM should also include a commitment by the international community to implement risk mitigation policies and create risk and conflict maps.

With respect to strategies for **protecting and assisting migrants**, the GCM must include the commitment to formulate and implement protection and assistance strategies as soon as 'socio-natural disasters' occur. Specifically regarding the migrant population, the international community must move ahead with the generation of information on climatic conditions that this population could face along the migratory route, especially in countries that constitute the principal migratory routes, and also define protection strategies for the migrant population in the most crowded areas (such as border zones), the most vulnerable areas, and the areas most affected by violence. This information should include locations that offer protection options for populations affected by socio-natural disasters.

Concerning the **prevention of mobility caused by conflicts**, it is proposed that the GCM call on countries to commit to strengthening strategies for preventing and combatting transnational organized criminal structures and common delinquency, as well as to creating diverse and varied mediation mechanisms for solving conflicts that cause displacement. This must imply the generation of more and better information on the incidence of these phenomena on migration, and the development of protection policies at the national level for those persons susceptible to forced mobility as a consequence of conflicts or the activities of organized crime and common delinquency.

### THEME 3 INTERNATIONAL COOPERATION AND MIGRATION GOVERNANCE IN ALL ITS DIMENSIONS

*Particularly at Border Crossings and during Transit, Entry, Return, Readmission, Integration, and Reintegration*

Regarding this theme, the participants agreed that the Global Compact's priorities on **international cooperation and migration governance** must include vulnerable groups. These populations must be granted priority status, particularly with respect to the development of commitments and actions aimed at the social reinsertion of returned migrants, the inclusion of migrants in social security programs, and efforts to address the factors that cause forced migration.

The GCM should be used to obtain a commitment from States to inject resources that guarantee that migrants are returned under proper and dignified conditions. The GCM should also contribute to developing **guidelines agreed upon at the global level to define directives that should be followed in all processes involving the return and reintegration of migrants by any country.**

The commitment to promote the opening of labor markets to increase employment options for migrants should also be assumed by way of the Compact. Another area where international cooperation must be promoted involves facilitating the portability of social benefits. It is also fundamental to promote the exchange of good practices, especially those that promote development in the communities of origin of significant migratory flows.

The GCM should also promote the **generation of detailed data for the study and understanding of migratory flows**, so that international cooperation efforts regarding migration governance may be based on proper and sufficient data. Likewise, it is necessary that the data on migrants be broken down by sex and age, especially in light of the changes observed in migratory flows in recent years regarding the increasing numbers of migrant women and children. To achieve this objective, it is fundamental to increase budgetary allocations aimed at generating information on migrations and migrants.

The GCM must also serve to commit States to promoting the identification, systematization, and harmonization of indicators that facilitate the understanding and comparability, at the global level, of the information generated on migrations and migrants.

#### THEME 4 CONTRIBUTIONS OF MIGRANTS AND DIASPORA COMMUNITIES

*to all Dimensions of Sustainable Development, Including Remittances and Transferability of Benefits*

The participants agreed that El Salvador is a country where labor emigration is a very significant process that benefits both countries of origin and destination countries.

Migrants make important contributions to the sustainable development of States. As such, the Global Compact must make an effort to make visible and empower these contributions, something that unfortunately is not evident to many social sectors, especially in destination countries. For this reason, the GCM must call on States to commit to disseminating objective information on the contributions of migrants, establishing programs to channel the talents, labor skills, and academic qualifications of migrants, and facilitating their insertion in the labor markets of destination countries and countries of return.

Similarly, the GCM must commit destination countries to promote the skills of migrants in their territory to facilitate their socio-labor integration (for example, by way of virtual platforms). For their part, countries of origin must facilitate the recognition of academic and technical certifications to aid in the reinsertion of returned migrants.

In reference to **diaspora communities**, the GCM must call on the international community to commit to strengthening the link and collaboration of diasporas with the priority development programs in their countries of origin, including their inclusion, consultation, and participation in country-of-origin development planning efforts.

The GCM also must serve to reduce the costs of sending remittances. It is necessary to not only promote such reduction, but also to identify public policy options that allow public banking systems to capitalize remittances in order to invest the yield therefrom in local development projects. The GCM must also commit States to devote a percentage of the tax revenue generated from remittances to economic and social development programs in migrant communities of origin.

**THEME 5** MIGRANT SMUGGLING, TRAFFICKING IN PERSONS, AND CONTEMPORARY FORMS OF SLAVERY

*Particularly the Proper Identification and Protection of and Assistance for Migrants and Victims of Trafficking*

Combatting **trafficking in persons and migrant smuggling** is highly important to El Salvador. On this subject, the Global Compact must give priority to strengthening control mechanisms along overland, air, and sea borders. It is also important to reinforce efforts at the global level to study these crimes and combat them in a coordinated manner.

Due to the importance of this theme, the corresponding principal object of the GCM must be to devote **greater resources to preventing and combatting these crimes** and to protecting and assisting the victims thereof. The GCM must establish a commitment to develop and consolidate an articulated inter-institutional system for assisting the victims of these crimes. It is also essential that migrants subjected to smuggling not be criminalized.

In addition, it is urgent to move towards creating programs that facilitate family reunification processes in destination countries for victims and their families, as well as developing humanitarian programs and permits for the temporary protection of victims and their families through, for example, the authorization of humanitarian visas that benefit vulnerable persons who have resided for an extended period in destination countries.

The GCM must succeed in committing States to enact specific legislation regarding migrant smuggling and harmonize, at the regional and international levels, laws that punish this crime, in order to reinforce actions to prevent and combat same.

With respect to combatting trafficking in persons, the GCM commitments must include the promotion of migrant rights in public and private communications media and the creation of information campaigns aimed at preventing trafficking. The GCM must also contribute to improving labor regulation in order to strengthen the identification of potential victims of trafficking for purposes of labor exploitation. Likewise, the GCM must promote the development of **programs for restoring and redressing the rights of the victims of trafficking in persons.**

Finally, the Compact must serve as a basis for States to commit to: creating a comprehensive information system on trafficking in persons and migrant smuggling, at the national, regional, and international levels; allocating a greater percentage of their budget to strengthening institutions at the central and decentralized levels for preventing and combatting these crimes; establishing shelters for receiving trafficking victims; and building the capacities of local authorities for detecting and identifying victims of these crimes.

**THEME 6** IRREGULAR MIGRATION AND MIGRATION THROUGH REGULAR CHANNELS,

*Including Dignified Work, Labor Mobility, Recognition of Skills and Qualifications, and other Relevant Measures.*

The Global Compact must contribute to **broadening and diversifying the options for regular** migration. States must acknowledge that as long as options remain as limited as they are at present, irregular migration will continue. It is also necessary to give priority attention to children and adolescents by facilitating their migration through regular channels, especially for purposes of family reunification and initiatives for normalization of their migratory status.

With respect to labor migration, the GCM must establish a series of mechanisms to facilitate and promote the legal hiring of migrants in destination countries, such as **temporary work visa programs**. The GCM must also commit States to seeking realistic and viable options for **regularizing migrant status** and creating awareness-raising campaigns that provide information on the risks and dangers faced by irregular migrants in both transit and destination countries.

Also regarding **labor migration**, the GCM must emphasize the importance of stronger **protection for labor rights and the promotion of safe conditions for all migrant workers**. To that end, it is essential that States commit to putting a human rights focus ahead of a security focus as the fundamental principle of migration governance. This change of focus is essential to ensure that the rights of migrants are effectively guaranteed, regardless of their migratory status.

In addition, the GCM must acknowledge the good practices of countries that have made significant progress in protecting the labor rights of migrants, regardless of their migratory status, and invite them to share said practices and help other countries to implement same.

The GCM must strengthen **protection of the labor rights of migrant workers by promoting the portability of their social benefits and facilitating their effective access to labor justice**. The institutions of El Salvador call for the GCM to commit States, especially destination countries, to ratifying and updating international conventions regarding protection for the rights of migrant workers and their families.

The Global Compact must also call on States to commit to developing regulations that serve to implement policies and programs for protecting the labor rights of migrants and incorporate, into trade and integration agreements, free mobility agreements for all persons in general, and free labor mobility agreements in particular.

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