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Dialogue #1: Promoting Action on the Commitments of the Global Compact for Safe, Orderly and Regular Migration
Opening Remarks

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AN INTERNATIONAL HUMAN RIGHTS-BASED APPROACH TO IMPLEMENTATION OF THE GLOBAL
COMPACT FOR MIGRATION

Excellencies, distinguished guests, colleagues,

I want to begin by commending and celebrating those UN Member States that have today taken the important step of adopting the Global Compact for Safe, Orderly and Regular Migration (GCM). I also want to celebrate the Special Representative of the Secretary General for International Migration, Ms. Louise Arbour for her courageous leadership over the course of this process.

We live in a world of global interconnection and interdependence brought about by historical projects of imperial and colonial expansion, by curiosity, innovation and the many other forces that have driven human beings to migrate since the very origins of our species.

Our economic markets are globally interconnected, and the digital revolution currently underway enables a global flow of information in ways that reinforce our interconnection, even as they fuel old divisions and create new ones. Even as national identity is asserted and contested across the globe, for many, the communities they forge online, and across physical territories and national borders, become stronger drivers of identity and directors of behavior than the people they live with in their neighborhoods.

We are increasingly confronting the reality that we share a single planet, its atmosphere, and its resources. This basic truth makes global coordination vital, even just as a matter of the survival of any one nation or community.

In this larger context of interconnection, developing global legal and policy frameworks for how people move is urgent. Adoption of the Global Compact for Migration should be seen as an acknowledgement by UN Member States that no one State on its own can ensure the prosperity of its population, without global coordination on migration governance.

In the wake of the GCM's adoption, my remarks today emphasize that GCM implementation requires a human rights-based approach. I would like to address two questions:

The first question is: why take an international human rights-based approach to GCM implementation in the first place?

And the second question is: what does such an approach entail?

In addressing these two questions I focus primarily on the international human rights principles of equality and non-discrimination, in light of my mandate as the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. But I should emphasize that my remarks are generalizable to the numerous other international human rights implicated by the GCM.

Why take an international human rights-based approach to GCM implementation?

As the preamble demonstrates, UN Member States have rightfully recognized the central role that human rights obligations should play in GCM implementation. A small but vocal minority of States have attempted to legitimate their non-participation in the GCM by portraying it as introducing new human rights obligations that undermine nation-state sovereignty. Nothing could be further from the truth. As a non-binding framework, the GCM rests on *existing international human rights obligations* that UN Member States have worked hard to establish and consolidate.

Since the adoption of the UN Charter, UN Member States have developed an international human rights regime that, among other things, places the principles of equality and non-discrimination at its center. This regime includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, and the International Convention for the Elimination of All Forms of Racial Discrimination to name a few. Rather than introducing new obligations, the GCM framework rests on States' existing human rights commitments. For example, Objective 17's call for the elimination of all forms of discrimination should be understood as affirming the International Convention for the Elimination of All Forms of Racial Discrimination, which a remarkable 179 UN Member States have ratified as legally binding international law. Put differently, rejecting the GCM on human rights grounds amounts to repudiation of the UDHR, the ICCPR, ICERD and all other fundamental international human rights principles and laws, because in reality, these comprise the source of the human rights obligations in the GCM. UN Member States should reject backdoor attempts to undermine human rights and multilateralism, including when these attempts are cloaked in language of opposition to migration or migrants.

International human rights treaties exist because states freely exercised their sovereignty in the creation and ratification of these agreements. This very same sovereignty should be understood as including the grave responsibility to cooperate with other nation-states to ensure a global migration governance regime that promotes human flourishing on an equal basis, in light of the interdependence and interconnection previously mentioned. The international human rights framework offers a blueprint for respecting the inherent dignity of all human beings on an equal basis, regardless of race, ethnicity, national origin, gender, sex, sexual orientation, disability status or any other social category. This blueprint is of vital relevance for the global governance of migration, and also offers UN Member States a powerful resource for promoting their national prosperity, including in the context of migration. To some, advocating an international human rights approach will seem naïve. Yet what is truly naïve, is adopting a short-sighted approach to migration that treats it as a management problem, divorced from deeper normative and political questions about how best to foster sustainable and equitable institutions and frameworks in a world of inescapable global interconnection and interdependence.

What does an international human rights-based approach to the GCM entail?

1. Institutionalizing human rights within the implementation machinery of the GCM

The text of the GCM highlights that effective implementation requires concerted efforts at the global, regional, national and local levels, and a coherent UN system. The coherence of the UN system rests in part on the UN Network on Migration, which the International Organization for Migration will coordinate, and which will be led by an Executive Committee that includes: UN DESA, ILO, IOM, OHCHR, OSRSG, UNDP, UNHCR, UNICEF, and UNODC.

All of these Executive Committee members must themselves adopt a human rights-based approach to GCM implementation, IOM included, in light of its pivotal role in the system. In this respect, these Committee members need not lack support—rather, they should rely on the vast expertise, publications and guidance that already exists on how to promote and protect human rights, including in the context of migration. Committee members should look to the numerous human rights bodies within the United Nations including the various treaty bodies, and special procedures mandates, all of which have produced substantive and technical human rights and migration guidance of great value to the UN Network on Migration, but also to the UN Member States this network will serve.

As a matter of priority, the UN network must also institutionalize avenues for meaningful participation for local authorities, civil society, grass roots organizations (including social movement actors), and, of course, migrants themselves. Meaningful participation goes beyond mere consultation, to instead give these actors a say in decision-making. The Marrakech Women’s Rights Manifesto prepared by the Women in Migration Network offers just one example of the expert guidance that those who are on the front lines of migration governance can offer to the development of a human rights-based approach to migration.

2. Pursuing Substance over Form

In taking a human rights-based approach to GCM implementation, it is vital that UN Member States and UN entities adopt a substantive approach to international human rights rather than a formalistic one, and I want to highlight what that means in the context of equality and non-discrimination principles.

A substantive approach to equality and non-discrimination means not only addressing explicit forms of discrimination and intolerance against migrants, but also taking into account structural or institutionalized forms of discrimination that result in migrant exclusion. In violation of international human rights law, many States’ policies and practices appear neutral on their face but nevertheless burden migrants with structural and institutional barriers, and result in their exclusion on the basis of race, ethnicity, national origin, gender, sexual orientation, disability status and other grounds.

Relatedly, a substantive approach to equality and non-discrimination requires States to take an intersectional approach to equality and non-discrimination, ensuring that GCM implementation is not only gender-responsive, but also accounts for how intersecting and multiple identities of race, ethnicity, gender identity, sex, sexual orientation, religion, disability status and other social categories result in different lived realities and migration experiences. Migration policy and enforcement must reflect this intersectional understanding of discrimination.

States must mainstream this substantive human rights approach, and make it a foundational part of implementing each GCM objective. For example, although there is a specific objective dedicated to the elimination of discrimination, non-discrimination principles apply to *all* the objectives of the GCM.

Racial equality and the global governance of migration are intimately linked, and have been throughout the history of global governance regimes. All over the world, immigration law and policy and their enforcement are too often means for discrimination against migrants on the basis of their race, ethnicity, national origin and religion. Furthermore, it is not migrants alone who experience or are at risk of discriminatory treatment in immigration policy and enforcement. Racial profiling, prejudice, and even administrative barriers to proving citizenship combine such that immigration enforcement efforts oppress racial, ethnic and religious minority communities fully entitled to citizenship and even in possession of it. Unless States take decisive steps to embed equality and non-discrimination principles in all migration law, policy and enforcement, experience shows that both migrants on the one hand, and racial, ethnic and religious minorities bearing citizenship status on the other, suffer gravely even where racial discrimination is not the intent of the State. This recognition of the effects that migration governance can have on racial equality has to be central to the implementation of the GCM.

I want to conclude by saying that in this era of resurgent ethno-nationalism, UN Member States must not stand idly by while the politicization and scapegoating of migrants is used to undermine democratic institutions and the very project of inclusive political communities. The economic conditions of exclusion and inequality, and the other national anxieties that seem to be exacerbating the worst forms of xenophobic and anti-migrant anxiety, will not be diminished by State inaction or indifference. Border militarization, the racialized criminalization of migration, and denying migrants their human rights simply will not solve the deeper structural ills that leaders today must address in order to provide their nations with sustainable futures. The time for bold, visionary and responsible leadership committed to equality and non-discrimination is now, and States must demonstrate this leadership by adopting a human rights-based approach to the GCM's implementation.