



**Global Compact for Safe, Orderly and Regular Migration
Fourth Informal Thematic Session: “Contributions of Migrants and Diaspora to
All Dimensions of Sustainable Development, including Remittances and
Portability of Earned Benefits”**

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On behalf of Solidarity Center and Women in Global Migration Network (WIMN)**

Whether pushed by economic hardship, human rights abuse, climate change or conflict, or pulled to another country to share their work skills, culture and contributions, it’s hard to diminish the sheer will and optimism of so many women and men who migrate for work, who risk so much to do it and who share so much with the world.

I’d like to address a human rights concern regarding the type of migration management system known as circular, or temporary, migration, which is fraught with human rights concerns and is being discussed in this process. Most migrant workers travel through these legal, temporary migration structures that often violate their human rights.

Migrant workers have equivalent rights to associate and assemble, based on international human rights law and global labor standards. Core ILO labor conventions include the Freedom of Association and Protection of the Right to Organize, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Neither allow discrimination against migrants. Indeed, these foundational rights are essential to the protection of other core labor rights, and apply to all workers regardless of immigration status.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights also both explicitly protect the right to form and join trade unions, as well as right to freedom of association and assembly more broadly, and apply to equally to migrant workers.

Unfortunately, circular and temporary migration programs limit these rights in law and practice. If the Global Compact process recommends these systems without insisting on specific inclusion of the rights of migrant workers to form and join trade unions and to associate and assemble to advance their own labor and human rights, then we will be codifying discrimination and exclusion through a UN process. That would be unacceptable and run counter to human rights. And we say this in strong terms because we also know these systems are



avored by States and employers, but are increasingly being challenged by civil society.

In his fourth report to the UN General Assembly in October 2016, the UN Special Rapporteur on the rights of peaceful assembly and association specifically addressed these temporary and circular migration programs. His report highlights how:

“Having legal status does not ensure workers can exercise their fundamental rights. Many temporary or circular migration programs structurally deny or inhibit rights to assembly and association and leave workers at the mercy of employers.” That includes well-known and studied programs in the Gulf countries (known as kafala) and United States (known as guest-worker programs) and these are just two examples. “These and other hyper-rigid systems tie a migrant worker’s presence in the country to a visa sponsored by a citizen or an employer. From a legal standpoint, these States have delegated oversight, control and responsibility for foreign nationals to private companies and individuals. Such devolution of responsibility has led to gross abuses and denial of fundamental rights” of a sort that should not be codified by an important process such as this.

The Global Compact must consider other forms of regular migration. Temporary migration programs should be used in very limited circumstances when employment is truly short term and temporary. States should develop other regular migration programs that allow for changing employers, providing for family unification and enabling long-term residency.

If guest and temporary migrant worker programs are to be included in any way in the Global Compact, the programs must (a) insist on eliminating the coercive conditions of work visas that provide the employer inordinate control over the lives of workers; (b) remove impediments to freedom of movement and access to justice (for example, provide temporary immigration status while rights violations are being investigated so that workers who leave an abusive employer are not punished with deportation for being out of legal status); and (c) ensure they guarantee full labor rights and rights to freedom of association and assembly.

Thank you.