

The Global Alliance Against Traffic in Women thank you for this opportunity to raise three points that we hope the global compact will address to help reduce rights violations against migrants, including trafficking in persons.

Before departure, whilst they could support safer migrations, poor quality pre-departure trainings can increase the risk of human rights abuses against migrant workers. For example, GAATW has observed training sessions that focus more on pressuring women to be obedient and submissive in the supposed interest of maintaining family and national *so-called honour* than on imparting useful information about potential risks and abuses. This does not equip women migrants with the knowledge and confidence to report human rights abuses and seek remedy and justice.

The criminalisation of migration and of migrants in irregular status creates a barrier to individuals reporting and seeking assistance for human rights abuses. States need to implement binding firewalls to eliminate migrants' fear that their personal data will be shared with immigration enforcement authorities leading to arrest, detention and deportation denies migrants access to justice, complaint procedures, and social services.¹

Even where states do not criminalise the migrants themselves, many states take an expansive approach to criminalising the smuggling of migrants – not only criminalising smugglers, but even criminalising civil society actors who work to support migrants. This exceeds the international legal requirement and agreed definition of smuggling which must be for “financial or other material benefit”.²

Smuggling of migrants does not in itself constitute a human rights violation.³

The global thematic consultations have heard grounded research on smuggling of migrants and we hope the global compact will build on to ensure a rights- and evidence-based response. For example in this region, UNODC have reported that “it seems that assumptions about transnational, mafia-style smuggling organizations are not supported by the available literature and data.”⁴ We hope that the global compact will provide an opportunity to build a consensus towards a rights-based approach to anti-smuggling, situating the reality, needs, and rights of the migrant at the centre.

Thank you.

¹ See for example, Committee on Economic, Social and Cultural Rights, General Comment No. 23 on the Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, 8 March 2016, para.54; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, CMW/C/GC/2, 28 August 2013, paras.63, 64, 74, 77; Human Rights Council, Report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility, A/HRC/35/25, 28 April 2017, para.68, Targets 6.1, 8.1 and indicator 6(a); General Assembly, Report of the Special Rapporteur on the human rights of migrants: Developing the Global Compact on Migration, A/71/40767, 20 July 2016, paras.36, 83, 123; ILO Committee of Experts, 2006 General Survey on the labour inspection instruments, paras.78 and 161; ILO Committee of Experts, Promoting fair migration: General Survey concerning the migrant workers instruments, ILC.105/III(1B), 2016, paras.480-482; OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*, A/69/CRP. 1, 23 July 2014, Guideline 10.11 specifically calls for firewalls and many others cannot be realised without them; OHCHR, *Principles and practical guidance on the protection of the human rights of migrants in vulnerable situations within large and/or mixed movements, on the basis of existing legal norms*, A/HRC/34/CRP.1, 23 February 2017, paras.17, 50, 86, 91, 95, 99, 110; European Commission against Racism and Intolerance (ECRI), *General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination*, adopted on 16 March 2016, Council of Europe, Strasbourg, CRI(2016)16, Recommendations 2, 3, 11, 15, 29, 30.

² Smuggling of migrants is defined in international law as: “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national” (The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Article 3).

³ OHCHR, *Situation of migrants in transit*, A/HRC/31/35, 2016, para.56.

⁴ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges*, UNODC: Bangkok 2015, p.91;