



TOWARDS A UN GLOBAL COMPACT FOR MIGRATION: AN AGENDA OF TODAY AND FOR TOMORROW

**Comments and ideas by ICMPD
for the informal thematic sessions**



ICMPD

International Centre for
Migration Policy Development



TOWARDS A UN GLOBAL COMPACT FOR MIGRATION: AN AGENDA OF TODAY AND FOR TOMORROW

**Comments and ideas by ICMPD
for the informal thematic sessions**

TOWARDS A UN GLOBAL COMPACT FOR MIGRATION: AN AGENDA OF TODAY AND FOR TOMORROW

Comments and ideas by ICMPD for the informal thematic sessions

The [New York Declaration for Refugees and Migrants](#) adopted by world leaders in September 2016 is a welcome first step into the establishment of a more comprehensive, cohesive and effective global migration governance mechanism. The ensuing process to develop a [Global Compact for Safe, Regular and Orderly Migration](#) represents a unique opportunity to translate the commitments of the Declaration into solid, effective mechanisms to address migration in a concerted and systematic fashion. It is also an opportunity to challenge uninformed and provisional practices in favour of evidence, partnership-based approaches that will yield the desired results and benefits to make a marked contribution to migration governance at a global and regional level. The process started in April 2017 with thematic and regional [consultations](#) that will culminate in a stocktaking meeting in Mexico in December. In this period, six informal thematic sessions in New York, Geneva and Vienna addressed a cluster of topics and themes listed in [Annex II](#) of the New York Declaration.

As the leading European intergovernmental organisation on migration, ICMPD offers its know-how and experience to contribute to the process of setting out a meaningful global governance framework for migration, grounded in reality, evidence and solid partnership principles. To this end an “Expert Voice” [blog series](#) was published mirroring each of the six informal thematic sessions where we shared our expertise, highlighted concrete examples and discussed how the global compact can set out to address its thematic commitments.

For more information on ICMPD’s work in these thematic fields, please consult the links in the text and visit our [website](#), specifically our [working papers](#), [policy briefs](#) and other [publications](#), as well as references to our [research](#).

Produced by | Policy Unit, Directorate for Policy, Research and Strategy

Layout | Marc Rechdane

Copyright | International Centre for Migration Policy Development
Austria, 2017

All rights reserved. No part of this publication may be reproduced, copied or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission of the copyright owners.

International Centre for Migration Policy Development (ICMPD)

Gonzagagasse 1
A-1010 Vienna
Austria
www.icmpd.org

TABLE OF CONTENTS

- 1. CITIES ARE THE CENTRE STAGE FOR COMBATING DISCRIMINATION AND SAFEGUARDING HUMAN RIGHTS OF MIGRANTS 5**

First Thematic Session on human rights of all migrants, social inclusion, cohesion and all forms of discrimination, including racism, xenophobia and intolerance in Geneva on 8-9 May 2017

By Ana Feder and Malin Frankenhaeuser

- 2. CRISIS-DRIVEN MOBILITY: WHAT DO MIGRANTS HAVE TO SAY? 8**

Second Thematic Session on addressing drivers of migration, including adverse effects of climate change, natural disasters and human-made crises, through protection and assistance, sustainable development, poverty eradication, conflict prevention and resolution in New York on 22-23 May 2017

By Maegan Hendow

- 3. HOW TO ENSURE INTER-STATE COOPERATION ON SAFE, ORDERLY AND DIGNIFIED RETURN? 11**

Third Thematic Session on international cooperation and governance of migration in all its dimensions, including at borders, on transit, entry, return, readmission, integration and reintegration in Geneva on 19-20 June 2017

By Sergo Mananashvili and Martijn Pluim

- 4. DRIVING THE SUSTAINABLE DEVELOPMENT AGENDA FORWARD – THE ROLE OF MIGRANTS AND DIASPORAS 16**

Fourth Thematic Session on contributions of migrants and diasporas to all dimensions of sustainable development, including remittances and portability of earned benefits in New York on 24-25 July 2017

By Marion Noack

- 5. COUNTER-SMUGGLING OPERATIONS AND PROTECTION: HOW CAN WE MARRY THE TWO? 19**

Fifth Thematic Session on smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims in Vienna on 4-5 September 2017

By Maegan Hendow

- 6. FIGHTING HUMAN TRAFFICKING: THREE PRIORITIES FOR THE UN GLOBAL COMPACT FOR MIGRATION 21**

Fifth Thematic Session on smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims in Vienna on 4-5 September 2017

By Claire Healy and Will Huddleston

- 7. IRREGULAR MIGRATION AND REGULAR PATHWAYS: WHAT WE REALLY SHOULD DO 23**

Sixth Thematic Session on irregular migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications and other relevant measures in Geneva on 12-13 October 2017

By Martin Hofmann and Justyna Frelak



CITIES ARE THE CENTRE STAGE FOR COMBATING DISCRIMINATION AND SAFEGUARDING HUMAN RIGHTS OF MIGRANTS

First Thematic Session on human rights of all migrants, social inclusion, cohesion and all forms of discrimination, including racism, xenophobia and intolerance in Geneva on 8-9 May 2017

By Ana Feder and Malin Frankenhaeuser

1. Human rights for all migrants

Even though human rights are codified in a number of international, regional and national treaties and laws, their application remains piecemeal. Migrants face additional barriers that infringe upon their full enjoyment of fundamental rights. These include structural discrimination in host societies, lack of awareness of these rights and migration status but also the resources and capacity of central, regional and local administrations to enact these rights.

The application of rights for migrants is particularly challenging in a context of “mixed migration” where flows of refugees, asylum seekers, economic migrants and others converge to create a group with common basic needs but fragmented in the rights and entitlements they can enjoy in their host countries.

The global compact should ensure the respect of existing legal instruments and help address barriers to their implementation on the ground. It should also seek to address disparities and fragmentation in enjoyment of fundamental rights among migrants, with particular attention to vulnerable groups such as victims of trafficking, children, women and young men.

Migrant rights are an integral component of a broader human rights and development agenda. Below are concrete examples and illustrations of how human rights for migrants are being implemented at the local and national level, as well as an existing tool that is serving to address an implementation gap at the local level:

- In 2014, the city of Vienna declared itself a city of human rights. This action was the result of an extensive needs assessment and consultative process with stakeholders across the city. This political decision of the city ensures that it goes beyond and above its traditional role as duty bearer to ensure every level of local policy is implemented through a human rights lens. This helps achieve a holistic approach to effective rights implementation on the ground. Vulnerable groups such as migrants are a specific target group addressed by this policy approach.
- The [Jordan Response Plan for the Syrian crisis](#) seeks to strike a balance between the needed emergency relief for the immediate needs of Syrian refugees living and transiting through its territory as well as long-term development trajectory of the country. As such, it seeks to address structural long-term issues including rapid urbanisation, resources scarcity and need for housing and transport infrastructure.

- The [Global Charter-Agenda for Human Rights in the City](#), developed by the UCLG Committee on Social Inclusion, Participatory Democracy and Human Rights, serves as a tool to localise the human rights agenda. It offers concrete steps that can be taken by local authorities going beyond fundamental freedoms to enact rights in the fields of cultural diversity and housing for the most vulnerable groups in the city, including migrants.

2. Social inclusion and cohesion

Human rights are a basic tenet of social inclusion. Notwithstanding, while human rights are codified in international, regional or national laws, social inclusion is a remit of the local level. In increasingly diverse societies, social inclusion and social cohesion policies need to create conditions allowing migrants to fully participate in the economy and to foster exchange and interaction between different social groups. National policies in the fields of employment and social protection, education and civic participation can contribute to the creation of such shared norms and values, for example by granting of voting rights for immigrants and promoting dual citizenship.

As the main setting where newcomers arrive and settle, cities represent the centre stage where social interaction unfolds, leading to inclusion or exclusion. Major urban areas, with increasing diversity and constant change in demography and landscape, are particularly affected by the phenomenon of social exclusion, which can arise out of legal, economic, social and cultural circumstances of migrants. The risks of exclusion are manifold and can generate civil discontent, conflict and even unrest.

Beyond the risks posed by the threat of exclusion, the positive levers of inclusion of urban and regional development and growth must be widely advertised, to shift the balance in the narrative of migration.

- The city of Tangiers has set out a process of mainstreaming migration governance into the policy of the city to ensure that there is coordination and application of frameworks and charters ratified by the city. One of the measures taken by the city is to support civil society groups, including migrant organisations, by financial means to empower grassroots organisations that set out to address needs and identified gaps, including increasing service take-up among migrants and combatting prejudices through the promotion of a positive image of migration.
- The municipality of Madrid encourages citizen coexistence through the use and construction of public space that promotes inter-cultural dialogue and transcends a vision of shared multiculturalism. This is done through a participatory process which involves the community in devising a shared space. The process is mediated by local public officials and undergoes constant evaluation at each stage of the process to ensure the actions achieve desired outcomes and objectives.

3. Discrimination, racism and intolerance

Just as human rights represent a basic precept for social inclusion, discrimination and racism are the other side of the coin – acting as consequent barriers to social inclusion of migrants. Beyond national tools, the [European Union](#) offers a promising example of a regional legislative framework for combatting discrimination – despite existing shortcomings.

Moreover, the current discourse surrounding migration has taken a dramatically negative turn in the last decade both within Europe and internationally, demanding a review on how information pertaining to migration is gathered, shared and disseminated amongst different actors, which greatly affects both migration policy and public perception.

The Global Compact represents an opportunity to address the lacuna of tools available to redress and report discrimination and racism, promote evidence-based discourse on migration, while also addressing the root causes of prejudice and intolerance.

- Lisbon Municipality provides a community space for residents and youth from peripheral neighbourhoods with high concentration of migrants to gather and exchange. The aim is for local citizens to participate in the social, political and cultural life of the city. The centre and services provided serve to act a bridge for inclusion and active participation of the most vulnerable groups in the every-day life of the city.
- The European Union-funded Interactive Map on Migration ([i-Map](#)) is a web-based information and knowledge platform which aims to enhance and facilitate information exchange and contribute to a more balanced narrative on migration. It collects relevant information and data about migration and flows and makes this readily available and accessible to relevant decision-makers.
- The [Migration Media Award](#) recognises and rewards excellence in journalism and reporting on migration. Launched by ICMPD under the aegis of the Maltese Presidency of the EU, the award aims to further improve the quality of journalistic work and reinforce the positive role which media can play when it comes to influencing the current narrative on migration. Our recent [study](#) on the Mediterranean reveals that journalists are often poorly informed about the complex nature of migration and newsrooms are also vulnerable to pressure, manipulation and hate speech by some political elites or voices on social media networks.

4. Implementation through good governance and partnership

For the global compact for migration to achieve its desired objectives and become a useful tool to combat discrimination and safeguard human rights of migrants, operative mechanisms for dialogue, cooperation and partnership among relevant stakeholders will need to be put in place.

- The compact could help disentangle the principle of subsidiarity which governs areas of responsibility of national, regional and local governments in respective areas of human rights, social inclusion and discrimination. An open dialogue needs to be established to determine the right level of competence to address these areas and set out strategies to tackle gaps in responsibility.
- Regional integration processes, such as EU anti-discrimination and human rights acquis, must be incorporated into any global framework on migration. The implications of regionalisation on migration, as is the case in Europe, must be highlighted and further explored for the positive elements that it can bring in the process of embracing common principles and values on human rights and migration.
- Inter-institutional cooperation among different administrations must be ensured. Beyond global frameworks such as the Agenda 2030 and the New Urban Agenda, coherence must be sought among the New York Declaration commitments and the enactment of policy areas like security, finance and others that may have detrimental impact on equality and perception of migration which are root causes of prejudice and exclusion.
- Mindful of the reality on the ground, the complementarity between the two global compacts must be guaranteed; particularly in the light of the counterproductive effect fragmented approaches can have on social cohesion in host communities.
- Building evidence is a key element of the compact's long-term success. Collection and compilation of existing data on migration, disaggregated not only by characteristics of target group but also by local geographic regions can provide a better insight into the local realities of migration and the solutions to challenges on the ground. Both quantitative and qualitative indicators for integration and social cohesion must be accounted for in the evaluation of longitudinal policy implementation.
- Existing migration dialogues and regional processes, such as the Budapest Process and Rabat Process, can serve as a source of inspiration for new migration actors to gather in the spirit of true partnership and cooperation.

CRISIS-DRIVEN MOBILITY: WHAT DO MIGRANTS HAVE TO SAY?

Second Thematic Session on addressing drivers of migration, including adverse effects of climate change, natural disasters and human-made crises, through protection and assistance, sustainable development, poverty eradication, conflict prevention and resolution in New York on 22-23 May 2017

By Maegan Hendow

1. Mobility when a crisis hits – how migrants move

Those who are displaced across borders due to conflict are primarily – but not exclusively – refugees, their situation discussed in the global compact on refugees. Nonetheless, conflicts and crises, including environmental crises, also impact the mobility of other migrants in the country when a crisis hits, who need to move to avoid risk to health and life. This can mean mobility within a building, a city, a country, a region, or return to the home country. The global compact should take into account the impact conflict and other forms of crisis have on migrants and their mobility – both within the country of destination, as well as to countries to which migrants may be displaced. It can provide guidance on support that can be provided to migrants at every stage of their movement, in line also with support that will be outlined under the global compact on refugees as well as the various international instruments and guidance already elaborated. Notably, it should integrate practical guidance from the Migrants in Countries in Crisis Initiative's [Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster](#) and the Global Migration Group's draft [Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations within large and/or mixed movements](#).

These guidelines are building blocks that can be used and referenced in concrete ways by the global compact, in a way that speaks to the realities of migrants on the ground.

- For migrant domestic workers caught in the 2006 war in Lebanon, the role of the employer was crucial, as domestic workers are tied to them in the sponsorship program. In our research, migrants highlighted various forms of mobility: moving with employers to another home outside of Beirut in the mountains, to a hotel in Beirut, being locked in their employer's apartment, and going (or being brought) to their respective embassies or consulates for evacuation and repatriation.

"There were 6 workers including my cousin in Saida whose employers had left and locked the doors on them. I told them to break the doors and collect themselves and get a cab and come to Achrafieh. The cab took \$400 – of course using the situation" (Female Filipino migrant in Lebanon during the 2006 crisis)

During the crisis, Caritas and migrants who had identified migrant domestic workers trapped in employers' houses contacted and coordinated with the Lebanese Internal Forces to rescue them. This type of communication and coordination facilitates migrants' access to support in an emergency, and is already clearly indicated in the MICIC Guidelines (Guideline 6 on effective communication with migrants) and the

GMG Guidelines (Principle 3 on rescue and assistance), together with examples of effective communication channels.

- For many migrants displaced by the Libya conflict in 2011, they returned to their respective home countries, after a short sojourn in countries neighbouring Libya, where transit camps were set up to facilitate return. In Tunisia, the state maintained an open door policy during the crisis, allowing those fleeing the violence in Libya to seek shelter there, as well as access services (including evacuation).

“When we arrived in Tunisia, we felt at home. We were met with food and shelter. The Red Cross helped us contact our families by phone, so did the Tunisian army, families and volunteers” (Male Egyptian migrant in Libya during the 2011 conflict).

Facilitating people’s ability to move to safe areas is an essential part of crisis response in general and MICIC Guideline 10 and GMG Principle 5 have outlined pragmatic ways states can apply this to migrants. Beyond facilitating border crossings, states can help migrants access or obtain travel documents and allow detained migrants to get out of harm’s way.

In drawing on both the real issues that face migrants, as well as relevant principles and guidelines that already introduce practical examples, the global compact can provide concrete guidance to states and other stakeholders on how and where they can better support migrants caught in a crisis situation.

2. Support in the longer-term: can the GCM address this gap?

Longer-term responses supporting crisis-displaced migrants represent an important lacuna in the policy sphere, according to our research. This is particularly true for those migrants who have returned to their country of origin following a crisis. For these migrants, and their families, the drivers and characteristics that led to their initial migration journey are often still present: low income, unemployment, food insecurity, and even conflict. Upon a migrants’ return, their families not only lose any potential benefits they gained from remittances sent by their family member, but also now experience additional burdens. This applies not only to the increased cost of feeding and housing an additional person, as well as any potential financial costs of the migration journey they may still owe, but also health and psycho-social issues from which the return migrant may suffer due to their experience with the crisis and potential shame at their failed migration journey. Training programmes, recognition of health and psycho-social needs, access to land for farming, and support for the development of small and medium sized enterprises, aimed at return migrants and local populations in the home country, can be important tools to support migrants and their communities in the long run. MICIC Guidelines 14 and 15 already outline a number of good practices that when implemented can better support migrants and their communities post-crisis, by states, private sector actors, intergovernmental organisations, and civil society.

“For returnees, we did our best. We asked landowners to find fields for some of them and it was done. For those who wanted to stay in town, we helped them to find plots. I clarify that help in some cases was individual but mostly it was collective.” (Traditional chief in Burkina Faso engaged in supporting returnees from Côte d’Ivoire)

Without tangible and forward-looking support upon return, returnees are unlikely to have a successful re-integration experience, which may lead to another migration journey, including to still-risky countries of destination. This has been particularly seen in Libya, where lack of meaningful re-integration in home countries such as Egypt, Niger and Ghana has led to re-migration to Libya, despite the serious security concerns that continue.

The global compact can and should address this gap – as a key driver of migration, environmental and human-made crises intersect with economic and demographic drivers, with the potential to exacerbate migrants’ vulnerability to violence and other human rights violations. Moreover, the global compact process should



Crisis-driven mobility: what do migrants have to say?

engage migrants and their advocates, eliciting migrant voices throughout the process, to ensure that it speaks to their very real and at times urgent needs.

Our research with migrants and stakeholders responding to them during crises was conducted for the EU-funded project “Migrants in Countries in Crisis: Supporting an Evidence-based Approach for Effective and Cooperative State Action”. We delve even further into the responses of migrants to crisis, as well as policy responses, across six specific crisis cases. This week, we launch our research publications with the Lebanon case study, focused on migrant domestic workers’ experiences of and responses to crises, in particular the 2006 war. For more information on our upcoming publications, including comparative reports drawing out the main convergences and divergences across the case studies and potential policy priorities for the future, please consult our [MICIC research](#).

HOW TO ENSURE INTER-STATE COOPERATION ON SAFE, ORDERLY AND DIGNIFIED RETURN?

Third Thematic Session on international cooperation and governance of migration in all its dimensions, including at borders, on transit, entry, return, readmission, integration and reintegration in Geneva on 19-20 June 2017

By Sergo Mananashvili and Martijn Pluim

1. Contours of cooperation on return according to the New York Declaration

The commitment for all States to cooperate closely on return and readmission features prominently in the [New York Declaration for Refugee and Migrants](#). The Declaration considers the dignified return of irregular migrants and the corresponding need for cooperation not only as an integral part of the overarching concept of safe, orderly and regular migration, but also as a necessary step towards **guaranteeing the credibility of asylum systems**. According to the declaration, such cooperation should take place between all relevant countries with the aim of ensuring that *“migrants who do not have permission to stay in the country of destination can return to their country of origin or nationality in a safe, orderly and dignified manner, preferably on a voluntary basis, taking into account national legislation in line with international law”*

Noting that cooperation on return and readmission forms an important element of international cooperation on migration, including the reaffirmation that states must readmit their own nationals, the Heads of State and Government and High Representatives described the following elements of such cooperation:

- Ensuring proper **identification** and the provision of relevant **travel documents**.
- Full implementation of existing **readmission agreements**.
- Enhancing **reception and reintegration assistance** to returnees.
- Compliance with relevant **human rights obligations**, with an explicit reference to the principle of **non-refoulement**, the best interest of the child, due process as well as special needs of vulnerable groups such as children, elderly, disabled and victims of trafficking.

As the New York Declaration foresees the inclusion of “return and readmission, and improving cooperation in this regard between countries of origin and destination” in the [Global Compact for Safe, Orderly and Regular Migration](#) (GCM), we will try in this policy brief to provide ideas for action relating to each of the above-mentioned elements. But to put things in context, it is worth to first elaborate on the particular interests of relevant actors, which shape such cooperation.

2. Who wants what?

Unsurprisingly, the **main concern of destination countries** is to protect their sovereign right to decide who enters and leaves their territory. In addition, as also confirmed by the New York Declaration, they regard the enforcement of return decisions both as essential to ensuring the credibility of the protection systems as well as a key tool in the fight against irregular migration. Against the background of rising populism surfing on the waves of anti-immigrant sentiments in the Global North, reinforced by the feeling of losing control over borders, return has recently made it to the top of the political agenda of destination countries. As a result, return policy and its perceived successes or failures have become highly politicised. There is mounting pressure on national politicians in countries of destination, especially within the EU, to deliver concrete results in the area of return and this pressure is then passed onto countries of origin and transit. As a consequence, cooperation in the area of return has even started to overshadow traditional development aid and other areas of bilateral and multilateral cooperation. The UN Secretary-General's former Special Representative on Migration, Peter Sutherland, paid a special attention to this trend in his [Report on Migration](#), stating that: "making unrelated areas of cooperation, such as trade and development aid, contingent on a country's cooperation in the return and readmission of migrants is short-sighted and wrong, and may actually strengthen some of the underlying drivers of irregular migration."

Countries of origin are often reluctant to cooperate with countries of destination despite their obligation according to international law to readmit their own nationals. A multitude of concerns define such reticence.

First, as [research has shown](#), forced returnees with interrupted migration cycles are an **additional burden for countries of origin** that may already be facing economic problems and challenges due to, for example, a growing population coupled with increased youth unemployment. The affected population can be potentially quite significant considering that migration is part of a household strategy. Hence, there might be high internal political, social and economic costs for country of origin governments when they cooperate on return.

Secondly, returnees may in certain cases pose a security risk, especially when those with no prospects of successful social and economic reintegration are at risk of joining anti-government armed (terrorist) groups (e.g. Taliban in Afghanistan or Al Shabaab in Somalia). Moreover, as we saw in the aftermath of last year's terrorist attack in Germany, perpetrated by an irregular migrant, such situations can create additional [internal resistance](#) within countries of origin to accepting returnees.

Thirdly, the dependency of certain countries of origin on *remittances* may play an important role as it can be argued that the return becomes a double burden for the government. As remittances often outweigh development assistance received from the countries of destination, it is not surprising that certain countries use it as an argument (rightly or just as a negotiation strategy) to say that they would rather not receive such assistance than accept it with conditionality linked to returns.

The **local context** is also important: countries who are already hosting a 6-digit refugee population are less likely to be willing to accept their own national returning without any prospect of reintegration.

Finally, confirming the actual citizenship of returnees poses another major challenge for the return of irregular migrants. The reasons for this can be purely technical, such as lacking elaborate **civil registry systems** necessary for proper identification of potential returnees, but it can also be related to the mere size of the country, the nature of its borders or the complexity of the individual migrant's personal history. For instance, a considerable number of rejected Afghan asylum seekers in Europe were born in Iran or Pakistan but kept the nationality of their parents who moved as refugees or irregular migrants themselves.

Concerning **transit countries** that are often hosting a large number of stranded migrants and thereby become **de facto countries of destination**, they also lack the resources and ability to return irregular migrants in a dignified manner. As a result, migrants are either kept in an indefinite state of legal limbo or pushed back in an informal and uncontrolled manner.

Finally, it must be mentioned that the discourse on cooperation often overlooks the importance of the individual migrant's agency in the overall scheme. Most of the abovementioned difficulties and tensions would not exist if migrants were willing to return of their own accord. The reasons for their unwillingness to return are well known and mainly concern the persistence of the initial drivers of migration (lack of personal development opportunities, jobs, etc.) and the fear to lose face in front of their family and friends. Cost-benefit calculations related to the large financial investment into the migration project, often with the help of family and friends, are also a key factor.

3. Blueprint for cooperation on return

The challenge which the drafters of the Global Compact for Migration face is how to reconcile these diverging interests, concerns and priorities.

Horizontal issues

The logical point of departure should be better communication and honest dialogue among the countries concerned. Reference should be made in this respect to Peter Sutherland's [Report on Migration](#), in which the UNSG's former Special Representative underlined the need for "more open and frequent communication between countries in order to foster understanding of States' differing interests and arrive at compromises that can be respected by all sides."

Migration dialogues could in this case be used as a suitable horizontal platform, also because many countries of origin participating in the dialogues are at the same time countries of destination interested in improving return procedures and learning from each other. As the previous years' thematic meetings on return – organised within the [Rabat](#), [Khartoum](#), [Budapest](#) and [Prague](#) processes – proved, a frank exchange on this sensitive topic among the countries of origin, destination and transit can in the long run lead to shaping a balanced approach which integrates the corresponding needs and interests of relevant stakeholders, without compromising on international human rights obligations. In fact, many of the recommendations listed below under each topic are congruent with the consensual conclusions adopted at those meetings by the respective chairs. These platforms can moreover be used for sharing good practices and seeking common solutions, as also illustrated by the Prague Process' relevant works leading to development of return-related [handbooks and guidelines](#).

Further modes of dialogue and horizontal cooperation in the field of return can be the deployment of **liaison officers** as well as the creation (probably also within the framework of existing dialogues) of further bi- and/or multilateral thematic platforms in the form of **task forces** or **working groups on return** involving multiple stakeholders. Such platforms can facilitate regular exchange with a view of identifying existing challenges, finding specific solutions as well as providing political support to specific initiatives (pilot projects, etc.).

Ensuring proper identification and the provision of relevant travel documents

Given the lack of elaborate identification systems in many countries of origin, often as a result of dysfunctional civil registry systems, it is crucial to develop cooperation in this area in the form of **capacity building** and **provision of technological know-how**. This is all the more important for countries of origin since civil registry systems are used for multiple other complimentary purposes.

Implementation of innovative hi-tech solutions enabling, for instance, direct access of origin countries' consular posts to their national civil registry systems or conducting identification interviews through videoconferencing can greatly facilitate the identification process and reduce financial and time-expenditure.

Conclusion of readmission agreements, which usually aim to formalise specific steps of cooperation on identification and issuing travel documents, can substantially ease the process of proper identification and the provision of relevant travel documents. Therefore, it is important to find ways (including by dropping

certain clauses which are not in the interest of the countries of origin as they might lead to additional burdens to their migration systems) to make them more acceptable for the countries of origin.

It should be stressed here that the recent proliferation of informal soft-law arrangements, often taking the form of memoranda of understanding, which is to some extent also a reaction to the unwillingness of the countries of origin to conclude legally binding Readmission Agreements, might pose a problem in terms of specific procedures and human rights guarantees, not to mention the challenges for their implementation.

Full implementation of existing readmission agreements

To say that existing readmission agreements must be fully implemented is stating the obvious since they are international treaties, their parties are bound to implement (*pacta sunt servanda*) and interpret them in **good faith** as provided for in Arts. 26 and 31 of the Vienna Convention on the Law of Treaties. The question is rather how to make their implementation easier. Institutionalised dialogue, capacity building and the use of modern technological means can provide some of the answers to this question.

As regards the institutionalised dialogue on their implementation, the EU readmission agreements, foreseeing the establishment of **Joint Readmission Committees**, provide a good example of how this dialogue could be shaped (as mentioned above, such structures are also important for the overall dialogue in the field of return).

Capacity building of the institutions of countries of origin involved in handling readmission cases is also very important, not only due to the complexity of the issue but also from the perspective of coordination (i.e. the whole-of-government approach) since a myriad of stakeholders are involved in the entire process.

Finally, IT solutions such as **readmission case management systems** allowing a speedy online communication between the relevant stakeholders (covering for instance submission of the readmission application, the planning of interviews, reply to the application, the request of travel documents, etc.) can make a substantial contribution to the time- and cost-efficient implementation of the existing agreements.

Assisted Return and Reintegration

Due to the above mentioned reasons, the existing AVR(R) programmes, which provide the financial support that is often much less than the money invested in the migration project or which sometimes only offer the prospect of being advised in the countries of origin to find a job (without the probability that this will indeed happen), cannot always persuade migrants to return. In addition to the fact that the countries of origin are also hesitant to readmit irregular migrants who do not have any long-term reintegration perspective, the challenge is how to act on both the migrant's agency and that of the country of origin in order to [find win-win solutions](#). Special attention needs to be paid to the fact that without sustainable return and long-term reintegration there is a high risk (and propensity) of re-migration which jeopardises the effectiveness of any return policy.

One of such win-win solutions can be bringing on board the **private sector** of the countries of destination as future investors willing to enter promising markets of some countries of origin with adequately trained personnel and political support of both destination and origin countries. To provide necessary (including political) backing to such projects involving potential returnees, it would be needed to create **structural frameworks for private-public partnership and multi-stakeholder dialogue** (high ranking officials from different resorts both in countries of origin and destination) **dialogue**, which could build on the abovementioned platforms. By enlarging the scope of cooperation, such initiatives can not only contribute to de-demonising of the field of return. They can also prepare the ground for more inclusive and genuine migration partnerships.

Other innovative solutions such as **involving origin countries' stakeholders in the pre-return counselling** or setting up **local return offices** (including by pooled resources of countries of destination -- this is especially

relevant in the European context) could also help to advance the cooperation among countries of destination, origin and even transit. More specifically, by setting up local return offices, destination countries, being present on the ground would be able to not only better monitor and coordinate reintegration assistance ([also by linking pre-return counselling with post-return reintegration](#)) in a given country but also strengthen origin countries' capacity to support their returning nationals' reintegration. It needs to be mentioned here that in order to make such cooperation work, certain destination countries' policy of punishing forced returnees by not providing any assistance will need to be reconsidered.

Against the background of emerging discourse on how to devise **development-sensitive return policies**, it is important to take into consideration that return and reintegration policies will fail to produce intended effects if they do not go hand-in-hand with the needs of each receiving community and if they neglect the drivers of irregular migration.

Finally, countries of destination and origin need to cooperate on presently almost non-existent **monitoring and evaluation of reintegration programmes** to build an appropriate knowledge base with a view to not only measuring the impact of existing programmes but also for the sake of devising better programmes in the future.

Compliance with human rights obligations

As for the specific actions for cooperation on the human rights aspects of return, wide deployment of **forced-return and post-return human rights monitoring mechanisms**, ideally involving relevant stakeholders from countries of destination and origin, would not only greatly contribute to transparency and legitimacy (and thus better acceptance) of the return procedures. It would also give the possibility to countries of destination to act timely in order to prevent the breach of their most important human rights obligations, for instance, if a returnee is at risk of chain expulsions in violation of the principle of non-refoulement.

Capacity building initiatives aimed, for instance, at building up reception systems for returning unaccompanied minors and other vulnerable groups as well building properly functioning asylum systems in transit countries (however not mala-fide with a hidden agenda of transforming them into safe third countries, which can certainly damage the trust) can further enhance the human rights protection of returnees and signal the burden-sharing with the countries of return.

As regards the general human rights safeguards in the process of return and the corresponding concerted actions, the wheel does not need to be invented twice. The UN International Law Commission spent [almost 10 years](#) codifying relevant substantial and procedural rights and obligations in its **Draft Articles on the Expulsion of Aliens**, which seems to have passed unnoticed in the present discussions. The current positive momentum should be used to reflect those standards (especially on detention, mass- and other prohibited expulsions, vulnerable persons, procedural safeguards) in the Global Compact for Migration.

4. Concluding remarks

While the Global Compact for Migration will be a non-binding instrument similar to many other declarations or compacts negotiated at the UN level, its importance should not be underestimated. Provided that its negotiators are open to new approaches, it offers a unique opportunity to shape global political consensus around such sensitive and inherently complex issues as the return, readmission and reintegration of irregular migrants. Development of specific guidelines can both instruct the states in their relevant cooperation and pave the way for more ambitious endeavours. We have a good example of it in Europe, where the political consensus reached in 2005 within the Council of Europe on the [Twenty Guidelines on Forced Return](#) was [instrumental in negotiating the EU's Return Directive](#) that is considered as one of the most progressive return-related legal instruments worldwide. The opportunity must not be missed, keeping in mind that if there is one topic which might not only ruin the final outcome of the GCM, but also severely damage the relations between groups of states, it is return.

DRIVING THE SUSTAINABLE DEVELOPMENT AGENDA FORWARD – THE ROLE OF MIGRANTS AND DIASPORAS

Fourth Thematic Session on contributions of migrants and diasporas to all dimensions of sustainable development, including remittances and portability of earned benefits in New York on 24-25 July 2017

By Marion Noack

Evidence shows that migrants and diasporas have a core role to play to contribute to development in their residence and origin countries (see for example the ICMPD's [study](#) on the transnational activities of the Georgian migrant and diaspora communities). What is less clear however is how to concretely promote their contributions to development in a holistic manner. Approaches have often been limited to punctual support in migrants' and diasporas' countries of origin without taking a holistic view that includes the context of the countries of residence. In addition, the notion of development in the discourse on diaspora engagement has been understood as geographically limited to countries in the Global South rather than as the development of people wherever they are. The Global Compact on Migration now offers the opportunity to shape a new global consensus that regards migrants and diasporas as actors in achieving the Sustainable Development Goals in the "spirit of strengthened global solidarity, focused in particular on the needs of the poorest and most vulnerable and with the participation of all countries, all stakeholders and all people" ([Transforming our world: the 2030 Agenda for Sustainable Development](#)).

To develop effective diaspora engagement policies, **we call for new modalities** based on four axes for action:

- Dissolve barriers to migrants and diasporas transnational lives;
- Develop inclusive diaspora engagement policies that cater for all segments of the diaspora;
- Empower migrants and diasporas as actors;
- Mainstream the role of migrants and diasporas in migration governance.

1. Dissolving barriers to migrants and diasporas transnational lives

Migrants and diasporas engage in a variety of ways and in several societies – however, to do so, they have to overcome many barriers, as a [study](#) conducted by ICMPD showed. These barriers take various forms. One of them is that in political discussions integration and transnational engagement are often treated as two different and even incompatible processes and policy fields, despite the fact that research has shown the contrary. Hence, an important empowering factor to promote contributions of diaspora to development is the integration process in the country of residence. Furthermore, in the discussions at global level on promoting migrants' and diasporas' contributions to development, references to discrimination and racism as one factor of why migrants and diasporas continuously engage in their countries of origin are absent.

This critical perspective, however, should be included in discussions in line with the [Sutherland report](#), the report of the UN Secretary-General's former Special Representative on Migration, Peter Sutherland, and the commitment enshrined in the [New York Declaration](#) that “[s]trongly condemn[s] xenophobia against refugees and migrants [...]”.

Entrepreneurial activities and financial transfers to the country of origin are the most tangible contributions migrants and diasporas make and removing related barriers will have positive impacts. [ICMPD's Link Up!](#) study shows that there are three main gaps within existing business-enabling structures, namely access to information, know-how and capital in order to fully unleash the potential of diaspora entrepreneurs. MEETAfrica, a [Rabat Process](#) flagship initiative, concretely supports young entrepreneurs in Africa. The Sutherland report, recommends actions to “*promote faster, cheaper and safer transfers of migrant remittances in both source and recipient countries, including through a reduction in transaction costs*”. ICMPD has recently launched its [technical support action](#) to the African Institute for Remittances (AIR) to work towards AIR's main objective to lower remittances costs within Africa.

Countries have also realised that effective promotion of diasporas and migrants contributions needs real partnership, participation and making them part of a joint vision for sustainable development. Some countries, such as Senegal, have started to experiment what real partnership means and have - for example - reserved seats in parliament for their diasporas.

2. Inclusive diaspora engagement policies that cater for all segments of the diaspora

As stated in our [working paper](#), we believe that in order to be successful diaspora policies have to address all aspects of human migration: the risks and vulnerabilities as well as the resources and opportunities that are created by mobility. Embassies and consulates have a key role in supporting migrants and diasporas in need and the Sutherland report calls on International Organisations to support states in strengthening “*their consular services and operate a global network of assistance centres for migrants*”. For countries with limited financial and human resources, however, ensuring widespread consular coverage and having the capacities to assist diaspora members is a challenge. To address this need, ICMPD has developed a method called “[mobile counselling](#)” to better serve and engage with diaspora members. Presently, ICMPD also supports the Jordanian administration to reach out and engage effectively with its expatriate communities ([JEMPAS](#), 2016-2018)

In the framework of the programme [Support to the Silk Routes Partnership for Migration under the Budapest Process](#), ICMPD aims to facilitate the policy development process towards Iraqi diaspora engagement. While Iraq encourages its nationals abroad to return home and support the development processes of the country, with a strong emphasis on attracting qualified and skilled Iraqis, low levels of trust towards national institutions as well as an emotional distance from home and multiple vulnerabilities partly related to their histories of forced migration impede migrants and diasporas engagement. A more nuanced approach that also addresses these vulnerabilities instead of overemphasising remittances and skills will contribute to the process of building trust as one precondition for effective diaspora engagement.

3. Empower migrants and diasporas as actors

Recognising migrants and diasporas contributions to development is essential. In countries of residence, a number of intertwined factors empower diasporas and support their engagement in development processes. An important one is the institutional and/or financial support provided to migrants and diaspora organisations. In countries of origin, and in addition to embassies and consulates, establishing government institutions or focal points specifically mandated to work on diaspora issues gives a strong signal of commitment and recognition to a diaspora.

ICMPD's engagement with diaspora organisations has been most visible through the ongoing support to the establishment of the platform for African diaspora organisations in Europe. The aim of the Africa-Europe Diaspora Development Platform ([ADEPT](#)) is to improve and enhance the capacity and impact of African diaspora organisations involved in development activities in Africa. We strongly believe that supporting platforms and associations of migrants and diaspora actors functions as an important empowering factor as networking and being part of this larger platform supports the creation of a common language and helps the parties involved to make sense of the global discourse on development in general, and migration and development in particular. The past has shown that a platform building process can only be successful if the platform creates benefits for all those who are involved and to pay attention to the different realities and levels of organisation of migrants and diasporas.

The recent upsurge in establishing migrants and diaspora platforms at EU and national levels is a strong signal of political opportunities that are conducive for migrants and diaspora engagement which is a success in itself. Nevertheless, expectations still persist that the creation of one single organisation will be able to represent the concerns and needs of all migrants and diasporas. These expectations are not only unrealistic but should also not be the objectives of supporting networks, platforms and migrants associations. Migrants and diasporas are not a homogeneous group, they have different interests, needs and expectations but being part of a platform certainly makes migrants and diasporas stronger.

4. Mainstream the role of migrants and diasporas in migration governance

The Sustainable Development Goal 17 "*Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development*" gives important impetus for involving migrants and diasporas as actors in all relevant policy fields. They should be recognised as actors throughout the migration cycle and in all fields of migration governance.

The inclusion of migrants and diaspora actors in the development of diaspora engagement strategies, as pursued in the actions of the joint EU-ICMPD initiative [Migration EU eXpertise \(MIEUX\)](#) for example in Burundi, Côte d'Ivoire, Ghana or Malawi, is important but needs to be expanded to other policy fields. Diaspora organisations facilitate integration and provide support to migrants in countries of destination while supporting development processes in their countries of origin. Migrants and diasporas who have returned to their countries of origin often provide important support in the reintegration process and all this makes them, without doubt, important stakeholders. The [Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster](#), established in the Migrants in Countries in Crisis (MICIC) initiative which is supported by ICMPD, emphasise the role of migrants and diasporas in reaching migrants in an irregular immigration status and others who may be hard to access in crisis situation.

Migrants and diasporas have carved out their role in global and regional political dialogues on migration, since the global attention has focussed on the links between migration and development. But still, they have a long way to go to ensure their full involvement. The focus of the upcoming thematic session is particularly appropriate as it includes the development impact of migrants and diasporas on countries of origin and residence as well as the barriers and obstacles they face in both contexts. Now it will be important to define concrete and measurable targets in all areas which implies to go broader than only focussing on remittances and migrants' and diasporas' financial contributions. And lastly, the process towards the Global Compact on Migration should lead by example and proof that migrants and diasporas have to be at one table with policymakers. See [ICMPD's diaspora webpage](#) for a selection of initiatives and publications.

COUNTER-SMUGGLING OPERATIONS AND PROTECTION: HOW CAN WE MARRY THE TWO?

Fifth Thematic Session on smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims in Vienna on 4-5 September 2017

By Maegan Hendow

[Research](#) has already shown that the current extent of migrant smuggling is directly related to large population movements triggered by wars, instability and economic crises, which lead people to search for a better life and protection from harm elsewhere. In the course of this search, migrants may use smugglers' services in order to gain access to a new country, where legal avenues are complex, difficult to access, or closed – as long as there is a demand for smuggling services, there will continue to be a market for it. Smugglers respond to the market's demands, as well as changes in border control and policies, in facilitating irregular border crossings. However, they are – by and large, but with notable exceptions in certain regions such as North Africa – organised in a flexible, horizontal structures linking various “service providers” together, such as recruiters, drivers, forgers, money exchange offices, accommodation providers and others. This makes border enforcement across various states difficult, as one actor can be removed from the chain and replaced without harming the network as a whole.

It is within this context then that border control and counter-smuggling operations operate. Walls, sensors, cameras, night vision goggles, patrols – these represent just some of the border management strategies used to combat irregular migration and migrant smuggling at the actual border. However, while the global compact should refer to appropriate actions to protect and assist (smuggled) migrants, we should also consider whether our actions put migrants in harm's way – or push them to use smuggling services that may be dangerous or deceptive.

1. Do no harm

First, states have a duty to ensure that their actions do not harm people. In the course of counter-smuggling operations, states should take this duty into account, and make reference to it in border management and policy-making.

- **Border control:** physical and even electronic barriers at the border are effective in preventing migrants from crossing that specific border area. However, research has demonstrated that such measures are not a preventive technique – they rather push migrants into alternative routes, via other states or other areas of the border that are more dangerous to cross. In this latter case, if migrants have not already made use of smugglers' services, they may then feel the need to do so.
- **Cyber control:** increasingly and worldwide, states are using electronic surveillance both at the border and online, for border control or counter-terrorism purposes. Migrants increasingly use technology and social media (WhatsApp, Viber, Facebook) during the smuggling process – on the

one hand to access smugglers' services or find a smuggler through word of mouth, and on the other hand as a means to protect themselves. For example, in cases where payment was to be released upon arrival of the migrant to the agreed upon destination, migrants previously would use a text message to their family at home to release the money to smugglers. Nowadays, however, some are using photos at well-known landmarks. This latter example ensures that the family can verify that their family member has not been harmed, and has not been misled as to the destination. Cracking down on smugglers' advertisements and communication must not then prevent migrants from using the same technology to protect themselves.

- **Prosecution of smugglers:** states need to and already take action to prosecute migrant smugglers. However, often smugglers use migrants as guides or skippers, in order to avoid making the border crossing him- or herself. These migrants agree to lead the group in order to pay a smaller fee for the crossing, and don't actually obtain any financial gain from the smuggling operation (thus do not fit the definition of a smuggler as defined under the Palermo Protocol). Thus, authorities should take this into account when assessing the person guiding the group, to ensure that he or she has actually orchestrated and benefited from the smuggling operation, rather than having merely participated in it.

2. Assess access to protection

Protection and assistance must not only be considered relevant for victims of trafficking, but also for migrants who have used smuggling services. Human rights considerations are still relevant when smuggled migrants are rescued or intercepted at the border, and smuggled migrants may also have protection claims.

As noted at the start of this article, migrants fleeing wars and instability are included among those using smuggling services. A group of smuggled migrants entering a country may include someone looking for work, an unaccompanied child, a victim of gender-based violence, someone requiring serious medical treatment and an asylum seeker from country experiencing conflict – or may have a background that includes several of these characteristics. Thus, screening and assessing for potential claims of protection – and triggering the relevant referral mechanisms – is essential upon reception of smuggled (and irregular) migrants.

Throughout the process of reception, detention and return of smuggled migrants, states must take a human rights approach. There is already a large body of work outlining policy recommendations and best practices for how states can better ensure the human rights of irregular and smuggled migrants, at all stages of the process: interception, reception, detention and return. The global compact can and should refer to these measures and recommendations in reference to treatment of irregular and smuggled migrants. See for example the EU Fundamental Rights Agency's triplet reports on fundamental rights at the EU's external borders: [airports](#), [land borders](#) and [sea borders](#).

FIGHTING HUMAN TRAFFICKING: THREE PRIORITIES FOR THE UN GLOBAL COMPACT FOR MIGRATION

Fifth Thematic Session on smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims in Vienna on 4-5 September 2017

By Claire Healy and Will Huddleston

The consultations for the Global Compact for Migration offer an opportunity to reflect upon existing anti-trafficking laws, policies and practices; to identify gaps and challenges and how to address them; and, most importantly, to consider how to better identify and protect trafficked people and prevent vulnerable groups from exploitation, within broader migration and humanitarian frameworks. We identify three priorities for the Global Compact in the area of anti-trafficking:

1. The Global Compact must contribute to effectively improving the **implementation of existing legal and policy frameworks** on trafficking in persons, resulting in increased protection for victims and more convictions of traffickers.
2. The Global Compact should contain commitments and practical, evidence-based guidelines on **identifying trafficking cases within asylum, migration and humanitarian assistance mechanisms and procedures**.
3. Finally, and perhaps most importantly, the Global Compact provides an opportunity to address some of the key **factors of vulnerability to exploitation and trafficking** that affect many migrants during their journeys and while residing in transit and destination countries, particularly in the context of large-scale movements. These include **lack of legal migration channels, irregular status, security-orientated immigration policies and border control measures** that negatively affect people's resilience to trafficking and other human rights violations.

1. Appropriate anti-trafficking legislation and policies are often in place, so the focus must be on implementation

The UN Office on Drugs and Crime's 2016 [Global Report on Trafficking in Persons](#) notes that most countries – 158 in total – now have legislation criminalising human trafficking. Many countries across the world also have relevant anti-trafficking policy instruments in place, including referral mechanisms and action plans. Nevertheless, despite an increase in some countries in the number of victims identified, it is widely acknowledged that large numbers of trafficked people are never identified and most perpetrators go unpunished, acting with impunity. The challenge, therefore, is to make sure that states effectively translate legal commitments and policy documents on combating trafficking into actions that punish perpetrators, and protect and support the recovery of trafficked people.

The Global Compact should therefore support states and provide mechanisms for them to better implement their anti-trafficking legislation and policies, ensuring that trafficking is prevented, victims are protected and traffickers are prosecuted. ICMPD's capacity-building initiatives in [Albania, Azerbaijan, Bosnia and Herzegovina, Moldova, Pakistan and Turkey](#); Jordan; and [West Africa](#) demonstrate how states can be supported in developing policies, initiatives and expertise to increase the impact of anti-trafficking actions.

2. Increase the identification of trafficking cases in asylum and migration contexts

During recent years, significant numbers of migrants and asylum applicants have travelled by sea and overland to the European Union, with over one million people entering EU countries along these routes in 2015 alone. Many people continue to make the journey from countries in West and East Africa across the Sahara into Libya, where the [situation for migrants is becoming increasingly dire](#).

If trafficked children and adults are not identified, they have no access to protection, justice, compensation or long-term rehabilitation. Recent research by ICMPD on [conflict, displacement and trafficking in the Middle East and Turkey](#), and the preliminary findings of ongoing ICMPD research on [trafficking along migration routes in the Balkans and the EU](#), indicate that the identification of trafficked people is too often overlooked in these migration and asylum contexts. This is because anti-trafficking policies and initiatives, as well as anti-trafficking practitioners, are generally not equipped to combat trafficking within dynamic mixed migration contexts. Similarly, migration, asylum and humanitarian assistance mechanisms, procedures and practitioners often do not take trafficking into account.

The Global Compact is an opportunity to connect policies, policy-makers, practices and practitioners from these two policy areas, making sure that they work together to identify trafficking in complex migration contexts.

3. Irregular migratory journeys and irregular immigration status increase vulnerability, which means that trafficking can be prevented by facilitating safe and regular migration

When irregular migration is the only option available, people become vulnerable to different forms of abuse and exploitation, including human trafficking, at various stages of their journeys. This vulnerability is exacerbated when migrants and refugees become stranded *en route*, often with limited access to basic assistance and with an unclear legal status. This vulnerability may be further compounded by the lack of legal channels for continuing the journey, and of durable solutions for migrants in transit countries, leading to an increased reliance on [smugglers and irregular migration routes](#). This reliance, in turn, contributes to increased vulnerability to trafficking and exploitation.

Irregular immigration status while someone is residing in a transit or destination country increases vulnerability by placing barriers to accessing basic services and decent work. In addition, general protection issues in the context of migration, displacement and conflict are also contributing factors for trafficking and exploitation: lack of access to basic needs, to opportunities for income generation, to accommodation, to education and to primary healthcare.

At a broader level, then, the Global Compact can help to avoid a situation where two policy areas are at cross-purposes: **while anti-trafficking policies seek to protect vulnerable people from exploitation, policies in related areas such as labour migration and border management – including counter-smuggling – may unintentionally increase people's vulnerability to exploitation.** This risk should be *a priori* taken into account in drawing up the Global Compact for Migration, to ensure that migration is indeed safe and regular, making migrants more resilient to abuse, exploitation and trafficking.



IRREGULAR MIGRATION AND REGULAR PATHWAYS: WHAT WE REALLY SHOULD DO

Sixth Thematic Session on irregular migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications and other relevant measures in Geneva on 12-13 October 2017

By Martin Hofmann and Justyna Segeš Frelak

For 2015, the McKinsey Global Institute estimated that international migrants contributed about 6.7 trillion USD or 9.4 percent to the global GDP although they represent only 3.3 percent of the world population. For 2016, the World Bank estimated the global volume of migrant remittances at more than 600 billion USD. The session's issue brief estimates that app. 150 million or 65 per cent of all international migrants work and have higher labour force participation than non-migrants. Immigration enhances economic growth, does not lead to job displacement, does not impact wages negatively, benefits public finances and welfare spending, and strengthens economic development in sending countries. Despite these positive effects, labour migration is loaded with misperceptions and met with scepticism.

Thus, and in absence of conceptual clarity and robust data, it is impossible to estimate the size of irregular migration and employment. But all available indicators suggest significant quantities and there are good reasons to place the issue of irregular migration firmly with the issue of creating more regular pathways. There is no evidence that more legal migration opportunities automatically lead to less irregular migration. However, there is also not enough awareness that irregular migration patterns develop over time and in an environment without sufficient legal opportunities.

Issue brief six lists a total of twenty recommendations on irregular migration, labour mobility, skills recognition and development, skills matching and fair recruitment and employment. Taken together, they have high potential to create a significantly improved system for managing global labour migration and mobility. Hence, this article does not attempt to add fundamentally different views but to emphasise those areas where specific attention is needed. Labour migration is a complex issue. It differs according to world region, labour market demands, legal traditions and regulatory density, skills levels or quantitative dimensions. It is challenging to address labour migration in its entirety while acknowledging the specificities of the specific situation. Nevertheless, generalisations can be made and this article argues that there are a number of areas which the global compact should view as priorities. Namely, it should be a starting point for addressing labour migration in the overall context of social cohesion, for real cooperation on skills matching, for the development of new approaches on low-skilled migration, for becoming serious about migrant rights and employer sanctions, and for incorporating regional dimensions into global thinking.

1. Address social cohesion as the sine qua non for functioning labour migration

This article stated that all evidence confirms that in general migration is economically beneficial. Nevertheless, immigration is met with scepticism in most societies and the notion that some of them would embrace immigration with open arms is more of a myth than a reality. In reality this reluctance is not so much linked to migration but to the effects of social and economic change. Change causes fears and immigration is perceived as a cause irrespective of the fact that in reality change comes from entirely different directions. Anti-immigrant sentiment is mostly found among those who are in fear of losing their jobs, livelihoods and social positions. Telling them that migrants are not to blame will not change their minds no matter how true such a statement is. Ultimately, more acceptance for immigration can be achieved only through policies that make sure that nobody is left behind, that create jobs and prospects for everybody and promote cohesion for the whole society. Holistic policies have to be honest about the benefits and costs of migration. More importantly they have to benefit all parts of the population but have to pay particular attention to all vulnerable groups among them, namely those who run the risk to fall behind as economies and societies go through change, and - that is the point - regardless of whether they are immigrants or not.

2. Get serious on skills matching for creating a globally mobile labour force

Governments increasingly acknowledge the need for foreign workforce in view of economic pressures or demographic change. As a result a number of sophisticated labour immigration systems have emerged on the international scene. The problem with these systems is that they hardly provide measures addressing the existing skills mismatch between the demand and supply sides. Functioning labour migration eludes any simplistic approaches. A sheer opening of labour markets is neither likely nor desirable. Each country needs the right kind of immigration with the right kind of skills, qualifications and characteristics. Those labour markets with high degrees of specialisation and formalisation require equally high degrees of formal and practical qualifications from those who want to enter them. At present these standards are taught almost exclusively on the domestic level. It is hardly surprising that most prospective labour migrants have no real chance of obtaining the necessary qualifications while they are at home. If they want to take up work on formalised labour markets they have to belong to the small segment of high skilled migrants, apply for low qualified work under a seasonal scheme or work in informal niches of the labour market, perpetuating deskilling and brain waste. Skills matching is a linchpin for enhanced labour migration between the world regions. The key is to implement policies on the basis of joint and mutually vocational training standards, including language skills, while they are still in their home countries. This would create a real triple-win situation. Joint but higher vocational training standards would empower graduates with significantly enhanced opportunity on global markets but also in their home countries. In case of migration, they would benefit not only from the opportunity to follow legal channels but also from higher incomes that would raise levels of remittances. Countries of origin would benefit from higher remittances and from enhanced legitimacy as more of their citizens would see their rights protected while abroad. Countries of destination would benefit from a workforce that is capable of filling existing and evolving skills and labour market gaps by way of legal and orderly migration, from contributing to economic development in countries of origin and by enhancing the readiness for cooperation in areas of mutual interest. Active policies on skills matching are new instruments. First pilot initiatives have been conducted and have shown positive results. The global compact should look further into them and complement them with labour market and migration strategies, labour market reforms and active labour market policies.

3. Acknowledge the need for “low skilled” labour migration

In the debate on labour migration governments tend to emphasise high skilled and skilled migration. It seems to be easier to find public and political support in these areas. Notwithstanding this, globally there might be an even higher demand for so called low-skilled or low-wage labour. This segment, however, is subject to the strongest restrictions, linked to structural exploitation of migrant workers and prone to irregular migration. Some scholars

argue that restrictive policies and rigid schemes for this type of labour migration are counterproductive as they virtually force migrants into permanent settlement and that more liberal approaches would allow migrants to respond more flexibly to the ups and downs of the economic cycle. Voter scepticism, labour market protection paradigms or security concerns - as they exist in countries where labour migrants represent large shares of the resident population - make such openings rather unlikely. The realistic option is to bring together the economic need for this type of labour migration and the political need to regulate in a better way. Bilateral and multilateral agreements, seasonal schemes or quota systems have the potential to achieve this goal. But they have to become more realistic regarding quantities, more specific regarding the demands they should cover and more pragmatic regarding the requirements they put on migrant workers. Most of all they have to avoid exacerbating the vulnerabilities of low-wage migrant workers and perpetuating their structural exploitation. The global compact should emphasise the development of more sophisticated and more rights-based bilateral and multilateral labour migration agreements. It should collect existing Good Practices, further expand them and develop their features into general principles guiding global cooperation on labour migration and mobility.

4. Grant migrants rights and impose employer sanctions to curb irregular labour migration

Labour migration helps to fill labour shortages but also the bottom positions in the job hierarchy in sectors with labour-intensive, low-skilled and low-paid jobs. Cut off from access to legal labour market and limited to specific economic sectors of the informal labour market, many migrants are ready to engage in such occupations despite not having the permission to enter the country, risking high fines or losing their residence status. Labour migration policies which ignore the need for such work push immigrants towards illegal employment and foster the emergence or enhancement of informal labour markets. And what's more, they push whole segments of the labour market into informal niches; which perpetuates irregular migration. The debate focuses too much on migrants themselves and does not pay sufficient attention to a very basic fact. For each irregular migrant worker there is at least one employer who employs him or her and there will be no change without finally addressing those who economically benefit from it. Employer sanctions - or clear incentives for legal employment - and migrants rights go hand in hand. More and better migrant rights will make it much more difficult and much less lucrative to exploit them. This will also slow the continuous shifting of formal jobs into informal ones. Granting rights to migrant workers is not so much a question of altruism but of economic wisdom and political foresight. Turning a blind eye on the demand side of irregular foreign labour in the interest of powerful lobbies and quick economic gains will backfire when whole sectors of an economy are pushed into informal segments and governments lose out on taxes and other contributions. It is the countries who grant the most extensive labour rights who are also the most productive and competitive ones. Rights promote development and the global compact should strongly emphasise this link.

5. Address the regional dimension in global approaches

States differ not only regarding their migration policy interests but also regarding their overall integration in global migration processes and the degree of interconnectedness with other states. The global compact needs to take into account these links and the regional particularities of migration flows and processes. Regional organisations should be given a central role in promoting global standards but also in devising regional approaches of cooperation on labour migration. There is a large gap between national interests that dominate labour migration policies of today and a globally shared understanding that should drive the policy framework of tomorrow. Regional organisations, as well as the formal and informal regional migration dialogues and frameworks, have the experience and know-how to bridge these gaps, to bring together countries with divergent interests and to promote cooperation between stakeholders with at times fundamentally different views and perceptions. ICMPD supports a number of related capacity building activities in different world regions such as the [FMM West Africa Project](#); the [MIEUX initiative](#) or the [Silk Routes III project](#). They aim at the development of labour migration policies and administrative capacities, labour migration strategies, or the establishment of a labour market and migration information systems, all of which will improve the basis for better global cooperation on labour migration and mobility.

6. Conclusion

A world where a globally mobile labour force obtains universally applicable skills and qualifications, benefits from univocally accepted rights and moves within controlled yet reasonably open and flexible channels is still a vision. But it is a feasible one, and the global compact process can contribute a lot to making it a reality.



TOWARDS A UN GLOBAL COMPACT FOR MIGRATION: AN AGENDA OF TODAY AND FOR TOMORROW

**International Centre for
Migration Policy Development, 2017**