

GFMD 2020 UAE – Thematic Note on Theme 4: Addressing Gaps in Migrant Protection

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I. Introduction to the Theme and Goal

GFMD 2020 Theme 4 is *Addressing Gaps in Migrant Protection*. Given the range of contexts in which international migrants (today 272 million) move, live, work and contribute to development, and the risks that lack of protection pose to them and to development, addressing gaps in their protection has been a focus of States and other actors in meetings of the Global Forum on Migration and Development from its beginning.

Further, for protection of human life and rights, and emphatically also for economic as well as human development, this subject has been a priority in each of the UN High Level Dialogues on International Migration and Development (2006 and 2013), the Agenda for Sustainable Development (2015), the UN High-level Meeting on Large Movements of Refugees and Migrants (2016) and the Global Compacts on Refugees and for Safe, Orderly and Regular Migration (2018). These have included declarations and resolutions that States have adopted either unanimously or with near universal consensus. In many respects, progress has been clear, if at times slow and inconsistent.

This year, the GFMD will focus on these three areas for Addressing Gaps in Migrant Protection:

1. Protection of migrants **in transit** (note: not just on the move)
2. Protection of migrants in **admission and policies of inclusion**, including access to social services and justice, and portability of benefits
3. Protection of migrants in **labour agreements and in the informal economy**

Section II of this paper considers the extraordinary COVID 19-related dynamics around GFMD work and issues this year, then Section III expands each of the three focus areas above. Examples of gaps in protection are provided with an invitation to States and other GFMD partners (civil society, business and mayors in particular) to discuss which of those, or others, they think are most important. Finally, rather than suggest practice and partnerships—existing or potential—that *address* those gaps, Section IV asks GFMD partners to do so, with guiding questions emphasizing joint action, especially in regional, national and local contexts.

II. Special COVID 19 context

What is this moment, and how does it relate to addressing gaps in protection? The world is experiencing not one but twin crises that are fully global: the COVID 19 pandemic sweeping the globe almost region by region, and an economic crisis born of measures unprecedented in speed and scale to combat that pandemic.

With respect to the pandemic, *protection* as a policy imperative—for health—is “suddenly everywhere”, to borrow a phrase from Kathleen Newland of the Migration Policy Institute. COVID 19 protection measures have included widespread home confinement, and the closing of external and internal borders, schools, factories and whole sectors of formal and informal economies everywhere—including millions of small businesses. The production and distribution of food, health and other goods has been interrupted, in some places seriously. Even as some countries and regions have loosened their restrictions, for hundreds of millions living on meager—and now unearnable—wages, it has become health vs. work and food. For the national and world economies, the cost

of fighting the pandemic has already been gigantic, invoking enormous new debt. And the end is nowhere in sight. As German Chancellor Angela Merkel put it 6 May, “We must be aware that we are still at the start of the pandemic, and will continue to deal with the virus for a long time.”

The need for protection in these crises affects everyone, not only migrants. However, direct reports and data show migrants experiencing some effects of the two crises disproportionately. For example, outsized exposure, infection and death from COVID 19 among migrants and their families because of their work, living or commuting conditions, especially where congested (e.g., factory, public service jobs and worker housing) or exclusion from health care and relief programmes; huge drops in employment and in remittances sent back to families and communities; rising rates of xenophobia and racism; and the paradoxes of increased return and blocked return (travel restrictions, sometimes even countries of origin), with increasing numbers of migrants stranded, abjectly, with little to live on.

And no one should underestimate what may emerge as one of the most historic, and global, waves of xenophobia and hostility ever directed at foreigners, if these next months and years see chronic and widespread unemployment, hunger, financial stress and other fall-out from the economic crisis. Even for smaller crises in the past, battling such waves has been filled with pain, reversals and uneven recovery.

GFMD not limited to COVID. The GFMD is not limited to consideration of COVID 19-related phenomena alone, but all of these are the kind of concerns that the GFMD has taken up over the years. Indeed, the twin pandemic and economic crises touch directly across a wide range of migration and development.

At a global webinar on COVID 19 that the UAE Chair organized April 28th, Swiss Ambassador Pietro Mona urged that the GFMD and others consider migrants not simply as vulnerable and victims in this moment, but as “part of solutions... part of the recovery” from the linked pandemic and economic crises.

Indeed, because of the work in the GFMD over the years, most notably its cultivation of concrete practices, partnerships and data, States and other GFMD partners can demonstrate that closing gaps in migrant protection will further fortify such solutions and recovery.

A paradigm shift? Even in the chaos of the two crises today and fears for tomorrow, there may also be seeds, if not early signs, of a possible paradigm shift in that direction. Among other things, in a number of countries of the north, south, east and west, migrants are suddenly being seen not only as essential workers, but as an essential part of a range of solutions needed to recover from the crises. For example:

1. The COVID 19 crisis in particular has made clear that the success of public health policies today depends on the inclusion of migrants. On the one hand, foreign born doctors, nurses and others are key healthcare workers in many regions (e.g., across OECD countries, 1 out of 5 doctors and nurses is a migrant). Moreover, public health policy can succeed only if everyone has access to healthcare, including migrants regardless of status— a lesson painfully learned where such access is unavailable, e.g., for workers in migrant dormitories. Gaps and risks for one group are gaps and risks for all.
2. Both the COVID 19 and the economic crises have revealed gaps, inequalities, and mistakes, but also point to possible solutions helpful both for emerging from the crises, and for more ordinary times beyond. Three snapshots of migrants in solutions to health and economic crises:
 - a. Migrants make enormous **financial contributions** to economies and development, often in two countries. In countries where they live and work, migrants contribute the inestimable value of their labour itself, plus spending or investing about 80% of what they earn there. According to the World Bank, migrants send the other 20% across borders as remittances—globally some US \$ 689 billion in 2018. Most goes to migrant countries of origin, where it is often a significant

- part of GDP, greatly exceeds foreign aid funding, directly supports individual economic activity and healthcare, and provides many the choice to not migrate.
- b. Migrants **create businesses and jobs**. For example, in 2014 the Financial Times reported that migrants launched 1 out of 7 businesses in the UK, creating nearly 1 out of 7 British jobs. The Wall Street Journal noted similar numbers for migrant-created businesses in the US; between direct hiring and knock-on employment generated in other businesses, one headline said simply “More Immigrants, More Jobs.”
 - c. Migrants do **essential work in jobs of existential value to everyone**, from families and cities to businesses and countries, at all skills levels, permanent and structurally seasonal. Existential value means health care in hospitals, other institutions and homes; farming and food services, including its distribution and sale; public transportation; even construction.

Civil society, businesses and mayors know and propel these solutions at the front-line, increasingly in partnership with one another. In policy-making, preserving such solutions implies keeping and regularizing migrants in this work, ensuring that it is *decent* work, in more fair and equal working conditions, and providing safe, orderly regular pathways that enable countries, cities and businesses to attract, retain and respect the essential workers doing it. In other words, it implies policies that address big gaps in migrant protection. Again, these have all been firm and consistent conclusions of States and other GFMD partners in processes of the GFMD, HLD, SDGs and Global Compacts across the years. As Ambassador Esteban Conejos, Chair of the second GFMD, in the Philippines put it: addressing gaps in migrant protection is “smart as well as right.”

Particular GFMD value today. Further, as Ambassador Juan José Gómez Camacho of the Mexican Chair of GFMD 2010 once put it, “the GFMD has been practicing for this for years”. That is, with data and recognition of migrants being part of solutions in every day economic activity and development.

It is no accident that the Forum is about not just migrants and migration, but also development. In this direction, so much has been discussed over the years, so much data considered, and so many conclusions agreed upon—leading straight-line to the SDGs and two Global Compacts. Each is a coherent menu of solutions for States to take forward, together with other partners in the GFMD and beyond. In fact, it is often said that what is now needed most is not necessarily more ideas but more partnership and joint action. That explains and is being given real impetus by the theme the UAE Chair has chosen to guide all of GFMD 2020: “*The Future of Human Mobility; Innovative Partnerships for Sustainable Development*”.

III. This theme’s three Focuses for Addressing Gaps

Focus # 1. Gaps in protection of migrants *in transit*. Examples that may be considered, among others:

- **of particular concern in COVID 19 contexts:** crowded and unhealthy migrant camps, detention facilities, workplaces and worker housing; lack of access to testing and treatment; loss of work and food security—and either no access or ‘last on the list’ for assistance; restricted movement, closed borders, and suspension of asylum procedures; stranded migrants; return either blocked or forced, even if sick and often without planning or measures for reintegration.
- **of concern in COVID 19 and/or more ordinary times:** inconsistent protection of specific rights and vulnerable individuals, including refugees, children, victims of torture, trafficking and trauma, and people who are old, disabled or sick (often in “mixed migration”); lack of alternatives to desperate onward migration in irregular and dangerous channels, even for refugees, such as regularization of work and stay, resettlement or regular pathways to other countries, and voluntary return, reintegration and decent work at home; over-focus on irregular migration (treated in GFMD 2020 theme 5)

Focus # 2. Gaps in protection of migrants *in admission and policies of inclusion*, including access to social services and justice, and portability of benefits. Examples that may be considered, among others:

- **of particular concern in COVID 19 contexts:** borders closed with admission blocked even for asylum seekers; lack of visas and regularization programmes even for essential workers; exclusion of migrants and citizen family members from health and social services and from COVID 19-related food, financial assistance, job support, rent suspension and other relief programmes; discrimination in seeking redress; suspension of remittance transfer services
- **of concern in COVID 19 and/or more ordinary times:** systemic exclusion of migrants and family members from access to public services, including health, education and justice administration; suspension, reduction or lack of pathways for regular migration or stay, including visas, regularization and family-reunification programmes; lack of portability of skills credentials and earned benefits, including pensions of workers leaving the country; high cost of remittance transfers

Focus # 3. Gaps in protection of migrants *in labour agreements and in the informal economy*. Examples that may be considered, among others:

- **of particular concern in COVID 19 contexts:** lack of respect and/or access to international labour standards, including worker healthcare, sick and rest days; crowded and unhealthy migrant workplaces and worker housing; essential workers pressured to work by employers or governments even without minimal measures of COVID protection (e.g., distancing, masks, etc.); non- or under-payment of wages earned; and termination that strands migrants without resources or return
- **of concern in COVID 19 and/or more ordinary times:**
 - **gaps in Labour Agreements:** lack of authentic responsibility-sharing and enforcement between countries of origin and employment; lack of enshrinement of international labour standards, including fair working conditions and pay (ILO reports an average 12.6 wage gap between migrants and nationals in similar occupations) and the rights to assemble, organize and bargain collectively; systemic discrimination against lesser-skilled migrant workers; insufficient measures against conspicuous abuse in recruitment and trafficking of migrant workers, e.g., high fees for placement and travel, fraud in contracts, forced labour and debt bondage; lack of social and legal protection against widespread violation of worker rights, including confiscation of passports and non-payment of earned wages; little certification of skills and lack of portability of skills credentials and earned benefits of workers leaving the country, including pensions.
 - **gaps in the informal economy:** inherent precarity of 2 billion workers in informal jobs in every region of the world, many of whom are migrants and most unconnected to even basic social and legal protections, replicated further in the “gig” sector, where many businesses, supported by legal systems and courts, broadly abdicate responsibilities to their workers for decent work and social protection. ILO reports “nearly 75% of migrant women working in the informal economy in low and middle-income countries”, e.g., care and domestic workers.

The task at hand. *Addressing* these or other gaps—with protection—is the task at hand. A great range of protection is spelled out in widely ratified international treaties and standards that are legion, practical and binding, including core human rights conventions, the 1951 Refugee Convention, the International Protocols on human trafficking and migrant smuggling, and ILO conventions and labour standards. Working directly with States and others, international organizations like IOM, UNHCR, ILO, UNICEF, OHCHR and UNODC have developed practical frameworks for related implementation; many regions, States, businesses and cities have elaborated further migrant rights and protections.

Gaps in protection are also legion, but not all gaps are universal or unfillable. In fact, many practices that succeed at addressing gaps are simply not enough known or consistently implemented, sometimes for lack of dialogue, partners, resources or adaptation.

The GFMD emphasizes that addressing gaps in migrant protection both fulfills human and labour rights and promotes development—human and economic. Data is unequivocal on this point, as is the direct experience of civil society (in particular migrants and diaspora), business and cities. So filling protection gaps creates development opportunities and solutions.

The goal is to see or build solutions. Ideally, many will be joint solutions based on shared interest and common ground that States, civil society, business and mayors (i.e., the GFMD partners) recognize together during this process.

IV. 3 Guiding Questions for 4 GFMD partners (States, civil society, business and mayors), on each of the 3 focuses of this theme

Question 1. In your country or region, what 2 or 3 gaps in migrant protection are of greatest concern to States and civil society, business and mayors, *and where do you and they have shared interest and common ground in tackling those gaps jointly?*

Question 2. In your experience, what specific practices, and what partnerships (if any) involving one or more States, civil society, business and city actors have filled gaps in migrant protection? How do they work, and can they be replicated or adapted in other circumstances?

Question 3. What 2 or 3 next steps can be taken, *and by whom*, with practices and partnerships that tackle such gaps “on the ground”, especially at regional, national and local levels?

For example: Working Groups? Communities of Practice? More concerted implementation of the SDGs, the two Global Compacts, and practical frameworks like Migrants in Countries in Crisis (MICIC); or ?
