**First Draft 28 Sept 2020** - *all input received by 28 September was considered for this draft, and much incorporated*

**Plan, Sources and Background Paper GFMD 2020**

**Roundtable Theme 4: Addressing Gaps in Migrant Protection**

**Background paper (first draft) begins on p. 2**

**Plan:** 5 - 7 pages, 4 legs:

* The context for the paper will be COVID-time—that is, in the three linked crises: health, economic, and what UN Secretary-General António Guterres calls the “protection crisis.”
* The focus of the paper will be *solutions-centered*: on forms of protection that are concrete solutions in COVID time for response to the crisis and/or recovery longer term. The paper will be a tool for the Roundtable, *not* a Wikipedia. It cannot say or include everything.
* The paper will emphasize common ground, partnering and concrete practices among the four GFMD constituent groups: States, civil society, business and cities. It is not an accident that this group is called a *Practitioners* Group.
* The paper will be development-oriented, not just on migration per se. In keeping with GFMD and SDG fundamentals, it will be human development, not only economic development.

**Principal Sources**

* The two key GFMD 2020 documents on Theme 4: the Thematic Note [[ENG](file:///C:\Users\johbin\Downloads\thematic_note_gfmd_2020_regional_consultations_-_theme_4%20(2).pdf), [ES](file:///C:\Users\johbin\Downloads\thematic_note_gfmd_2020_regional_consultations_-_theme_4_es.pdf), [FR](file:///C:\Users\johbin\Downloads\thematic_note_gfmd_2020_regional_consultations_-_theme_4_fr.pdf)]; and Summary of the four Regional GFMD discussions on this theme May-July 2020, which the GFMD Support Unit recently emailed to participants of this Practitioners Group.
* New inputs September - December from GFMD constituent groups and observers, especially:
  + practitioners from regions that did not have those GFMD regional meetings
  + practitioners from all regions on Sections 3, key issues; and 4, practices and partnerships

**First draft 28 Sept 2020** - *all input received by 28 September was considered for this draft, and much incorporated*

**Background Paper Background Paper GFMD 2020**

**Roundtable Theme 4: Addressing Gaps in Migrant Protection**

[all but # III below and the possible Annex are consistent with the TORs from 2018 + 2019 GFMDs.

In those TORs, # III focused on “main controversies”. Here the focus is building on common ground.]

**I. Introduction**

1. In a year and across years to come unlike many others in recent memory, almost everyone is looking for solutions in three fully global and long-lasting COVID-19-related crises: the health pandemic, the global economic crisis, and what UN Secretary-General António Guterres calls the *protection crisis* for migrants and refugees. What practices and partnerships save lives? What practices and partnerships restore lives, safety and dignity? Which save and create decent jobs; which build human development and economies that are sustainable and leave no one behind?
2. The experience and images of these crises are ubiquitous and devastating. Over a million dead and the numbers of people infected, hospitalized and dying on the rise amidst surges and even second waves in every region of the world. Schools, cities and borders in lockdown; jobs, earnings, industries, business activity and economies in cycles of shutdown and freefall. Scientists, medical experts, business leaders, civil society actors, including migrants, refugees and diaspora organizations, and government decision-makers working at every level to respond, urgently—and often in partnership.
3. From providing life-saving healthcare to performing other essential services in home, elder and child care, farming, meatpacking, food sales, construction and public transportation, and in the enormous value of the jobs, businesses, income and remittances they create, it is clear that migrants, refugees, the diaspora and members of their families are a key part of solutions in these three crises.
4. However, as further described below, the degree to which migrants, refugees, the diaspora and members of their families are part of the solutions depends on the degree to which they are included in sound systems of migration and protection. That is, protection of migrants of all kinds is also protection of development, in countries from, through and to which people move.
5. Indeed, to the extent that they are major contributors to development, driving both their own and broader human and economic development in countries of origin, transit and destination, it is no exaggeration to acknowledge the genesis of a development disaster where the pandemic and economic crises intersect with the protection crisis.
6. Whether measuring simply the sudden large-scale evaporation of their livelihoods and income in countries where they work, or also the linked risk to remittance flows on which millions of individuals and families depend—together with their communities and local and national economies, the development consequences at the intersection of the three crises are wide and dire.
7. It is little surprise then that States, civil society actors, businesses, city leaders, and international and regional organizations worldwide are jumping to consider *practices*, and *partnering in practices*, that work to respond in the three crises, to recover from them, and to “do better” going forward. Propelling partnerships in practice is a major emphasis of the United Arab Emirates (UAE), Chair of the 2020 Global Forum on Migration and Development (GFMD), and this roundtable aims to help do that.
8. Among other processes at international, regional, national and local levels, the 2020 GFMD has turned its attention to identifying and addressing gaps in migrant protection in particular. In doing so, the GFMD recognizes that gaps in protection create clear risks not only to migrants but to development.
9. Under the UAE Chair’s leadership, civil society, businesses, city leaders and international and regional organizations have participated in no less than 21 meetings since April that examined such questions, among others, arising in contexts of COVID. In April, the Chair convened two global webinars on “The Impact of COVID-19 on Migrants, Migration and Development”; between May and July, nineteen regional meetings open to the participation of all GFMD participants worldwide. Many hundreds participated.
10. Twelve of the regional meetings included a direct focus on the theme of this roundtable: addressing gaps in migrant protection, among them four full breakout sessions organized for interaction. The thematic note that was used to launch those meetings and a full summary of all discussions provide the basis for this background paper. Both documents are available in English, French and Spanish at [www.gfmd.org](http://www.gfmd.org).

**II. Key issues**

1. While the global pandemic and economic crises affect virtually all countries and people, evidence is clear (and is presented below) that the pandemic, economic and protection crises exacerbate pre-existing vulnerabilities and create many more disproportionately for migrants, the diaspora, and their family members. This is true whether they are moving voluntarily or not, residing or working temporarily or longer term, and even settled. In many cases it is also true regardless of the immigration status of the migrants, diaspora and their family members.
2. Before and also separate from COVID-19 phenomena, these vulnerabilities can be traced to many root causes and drivers. Migration forced, driven or brutalized by wide imbalances in demographics, finance and trade structures, unequal and inequitable economies and governance, including with respect to channels for human mobility, and situations of conflict, natural or man-made disaster and environmental degradation all increase the number and vulnerabilities of migrants, the diaspora and their family members. Exclusionary nationalism, xenophobia and discrimination pile on, including hardened obstacles to admission, employment and rights to health, other public services and justice.
3. In this sense, wreckage wrought by COVID-19 is just one more example of a cause and driver of vulnerability and gaps in migrant protection. The scale however, has been epic: migrants “last hired and first fired” in large numbers, sick and dying of COVID often disproportionately and with little or no medical treatment; stranded with no income and little or no resources, many left on the streets; doors everywhere slammed to new migrants or even those trying to return home—and paradoxically, many pushed back regardless of their vulnerability, rights to protection, or wages earned; all turbo-charging opportunities for human traffickers and migrant smugglers, for runaway debt bondage and even for outright slavery.
4. As always, among the most vulnerable migrants are those undocumented or at risk of falling into undocumented or irregular status; in detention or other enforcement proceedings; children; and victims of trauma, trafficking or other violence—including women and others at risk of persecution or violence on account of their gender identity or sexual orientation. Regardless of immigration status, those working in informal and domestic sectors, and their family members have been especially hard hit in the crises.
5. Addressing gaps in migrant protection cannot be complete without addressing root causes and drivers. In recent years, UN Member States agreed explicitly and unanimously on that point in the 2030 Agenda for Sustainable Development (SDGS, 2015) and the New York Declaration on Refugees and Migrants (2016). Member States expressed further agreement on commitments and actions to do so in their near-unanimous endorsements of the two Global Compacts on Refugees and for Safe Orderly and Regular Migration, both in 2018[[1]](#footnote-1).
6. Beyond root cases and drivers, those agreements reflected broad agreement on alternatives and solutions to address gaps in protection for migrants who have already moved, whether in phases of transit, destination or return. In that direction, and complementing efforts to address root causes and drivers, States, civil society, business and city participants in the twelve regional GFMD meetings that focused this year on addressing gaps in migrant protection showed clear signs of shared interest to exchange upon, and consider partnerships on a range of practices that help to address gaps in protection of those who have already move

**III. Building on shared interest and common ground**

1. Participants in the twelve regional GFMD meetings that focused on this theme talked as much about *who* should be partners as they did about *what* partners should do to address gaps in migrant protection. Thirteen years on in the GFMD process, this marries the emphasis of the Ecuador 2019 GFMD Chair on a “pivot to practice” with the priority on partnership that the UAE 2020 GFMD Chair placed in its overall theme for this year.
2. Good partnerships require the “right” or “key” partners. Success at partnership requires not only reasonable convergence—but also capacity. And the central purpose of partnership and partners is always to bring and boost needed capacity.
3. Joining States and civil society actors with urgency, fresh energy and healthy impatience:
   1. Mayors and local officials are key partners, especially at where people are, work and live. Cities and towns are first and daily responders, often partners *with* the national government but doing more effectively many things that only the cities can do anyway simply because they are physically closest to the people. This includes immediate welcome and protection of new arrivals, and support for local housing, urgent medical care, education and employment. As a practical matter, even integration is largely local. For example, in Senegal, Dakar has commissioned a Technical Counsellor (*Conseillière technique du Maire de Dakar*) to work on the protection of children.
   2. Private sector actors are also essential partners, including the innumerable businesses created or staffed by, or reliant upon the patronage of, migrants, refugees, the diaspora and members of their families. Jobs are centers for integration as well as production, income and development. In Morocco, for example, a recent agreement between the Ministry of Immigration, la *Confédération Générale des Enterprises* (CGEM) and UNHCR aims to facilitate integration of refugees, including better employment opportunities.
4. The people affected are always essential partners, andshould always be included in discussion and decision-making on policies and programmes that affect them. Inclusion must be a habit, not occasional, indeed, *inclusive dialogue* is an underestimated form of partnership.This is not just to be democratic or nice: it is also to be effective. For example, in the border regions of Cameroon, Gabon and Equatorial Guinea, when civil society groups created a platform for local administrations and other authorities—including border police—to meet and exchange with migrants altogether at the table, and “there were no reprisals, no more attacks.”
5. However, inclusion does not always mean “*everyone* at the table”. Whether in multilateral approaches or within the ideals of “whole of government” and “whole of society” approaches, it is important to include the different sectors. But within them all, partners “ready to move” are the key to partnerships achieving their objectives.

**IV. Examples of concrete practices and partnerships** [*possibly an Annex may add further examples*]

1. Referring frequently to corresponding objectives, commitments and actions in the Global Compact for Safe, Orderly and Regular Migration, States, civil society, business and city leaders participating in the twelve regional GFMD meetings on this theme commended the following solutions or part-solutions to respond to and recover from the three crises.
2. Respond urgently to urgent COVID-related problems of migrants and refugees; among others:
3. Provide access to COVID prevention measures, testing and treatment. One participant reported for example, that in the UAE, everyone is to have equal access to testing and treatment regardless of nationality or migration status, including free treatment for all who require it.
4. Connect to shelter and other solutions the migrants and refugees who are on the streetsbecause of lost work or evictions. For example, applying lessons learned in its recent experience of large numbers of migrants transiting in late 2018-early 2019, Mexico City was able to strengthen or extend many existing programmes and services to allow access to migrants. As one city representative put it, “We don’t want special programmes unless necessary”, *but* “if we don’t *strengthen* protection and access to social programmes, we have already seen that they will be forced to live on the streets.”

In Uruguay, “Montevideo has a fund,”, one participant reported, “so that migrants are not thrown out of where they live, whether rented or shared housing.”

1. Assist migrants stranded where they are, including seafarers, or even in return, at countries along the way home or blocked at their own country’s border. One participant described migrants camping outside their embassies waiting for help to get home, even as winter arrives.

Another participant described thousands of migrants deported southward by the United States and Mexico, some exposed to COVID risk in crowded detention or other facilities along the way. “We try to monitor but lack of access to information is very worrying,” and need UN partnership in this.

A representative of one State described thousands of workers trapped without resources in countries not their own when the ships they worked on were locked down by COVID restrictions. Because their own countries were unprepared or unable to help much, many were “on the streets for months.” The participant urged establishing a *mechanism* to assist those nationals and migrants in such circumstances.

1. Speed-up and simplify regularization of residence and employment eligibility, including documents.As representatives of the cities and other participants described, the COVID emergency has made it painfully clear how important it is to streamline, even relax rules and procedures that are just too heavy and slow—e.g., 6 months or more—for migrants and refugees to access essential healthcare, work and housing even in ordinary times.
2. “Learn the COVID lessons” that have value for recovery and long-term solutions. In particular:
   1. Ensure that key health services are open to all, without discrimination. COVID has reminded the world that no one is protected unless everyone is protected. As one of the States put it: public health in such a context is the very essence of a shared interest, “even in a selfish way”.

But because this can be complicated, States need to partner with other actors to ensure that migrants and refugees have genuine access to health care, regardless of their immigration status and without fear of being punished or deported for it. Participants mentioned several States going in this direction recently, including Spain and the UAE.

* 1. Expand effective community-based alternatives to detention in contexts of immigration enforcement, in all cases for children, for whom such detention is never in the child’s best interest and therefore a violation of their rights under the near universally-ratified Convention on the Rights of the Child, and for family members, among others.
  2. Recognize regularization of residence and employment as a fair, wise and practical measurefor migrants and refugees in irregular or undocumented status who perform essential services, including workers in health care in hospitals, group or home settings; farm work, meatpacking, food stores and public transportation, whether the workers are permanent or seasonal, or based on land or sea. Australia, Bahrain, Canada, Italy, New Zealand and Spain among others were commended for recent measures in this direction.
  3. Turn to building a *culture* that regularizes migration *and* employment *and* economies. Not just for the COVID crisis, but also to emerge sooner and stronger from the related global economic crisis**.**

1. Update migration policies by putting regularity structurally at the center.Participants observed that the lack of reality- and opportunity- based migration policies exacerbates vulnerability and protection problems for migrants and refugees *and* blocks economic and human development.Many noted that the lack of regular pathways increases irregular migration, even driving migrants and refugees to seek and consent to its worst forms (like human trafficking) and most dangerous routes.

Putting regularity at the center calls for policies that:

1. Adopt predictable, flexible, transparent and rights-sensitive labour migration policiesthat work both for protection *and* for development. Business participants were further emphatic thatsuch policies are essential to strong labour markets, to innovation, businesses and economies—both filling *and creating* jobs.

This issue achieved the greatest convergence by far among participants across all twelve regional GFMD meetings and all four GFMD groups. Moreover, representatives of all four GFMD groups expressed willingness to partner together in this direction.[[2]](#footnote-2)

1. Regularize the good recruitment processes and finally terminate the bad ones. Participants across the GFMD groups consistently described the reality of many current recruitment practices, for lower skilled migrants in particular, as a mess of abuse that is gross, conspicuous, in clear violation of international standards—and avoidable. Several participants described situations of outrageous debt bondage, forced labour, and gender-based violence.

Several participants said that existing arrangements, including most bilateral labour agreements, were broadly failing in these regards. It is time to insist on protection in formal and enforceable intergovernmental agreements, with strong sanctions available *and imposed* on abusers whoever they are.

Participants expressed appreciation of two forms of partnership working to fix recruitment: (1) the work of ILO on fair recruitment standards, and IOM on a code of conduct; and (2) public agencies that directly regulate recruitment actors or dynamics, like Morocco is promoting, including in partnership with Spain, with contracts that respect rights on duration of work, salary and social benefits consistent with the Global Compact for Safe, Orderly and Regular Migration.

As one business participant put it, “We need to be a better regulator of the recruitment industry, particularly those actors responsible for sending people overseas. They need to be registered, they need to be subject to legal authority to make sure that they’re doing things correctly.”

1. Invest significantly more on skills recognition, matching, mobility and development—and in related partnerships—in order to fully harness the potential of migrants and refugees for their own development and the development of their communities and countries.[[3]](#footnote-3) In Sri Lanka, for example, employers have supported the government in establishing a skills database aimed for launch in July, including a “skills passport” based on certification and recognition of prior learning.One business participant pointed to the two-way benefit of refugees with talent and skills needing work and employers needing them for that work.
2. Ensure social protection floors for migrant workers and genuine access for migrants and their family members to rights and public services such as healthcare, education, crisis relief programmes and justice without discrimination or recrimination. These would further be an important part of incentives to move from informal to formal employment.
3. Guarantee portability of rights and earned benefits, including to reclaim wages for work performed, and pensions. Representatives from States and civil society described a dynamic new multi-stakeholder partnership on Transitional Justice, created to help migrant workers everywhere recover wages for work they did in another country but have not been paid for since the onset of the COVID pandemic.
4. Elevate rights- and reality- based pathways for regular migration in contexts of family reunification, which has rarely been the subject of focus in GFMD processes, despite how paramount “family” is to decisions regarding migration and re-migration, employment and remittances, self-protection and human development.
5. Organize consistent needs-first assistance and protection for the full mix of migrants and refugees vulnerable in transit and upon arrival, including in mixed migration, in particular:
   1. victims of violence and trauma in contexts of migration—extending also to those helping and defending them
   2. migrants displaced by climate change and environmental disaster and degradation, with systematic data collection for evidence-based discussion and policy-making
   3. those returning to countries of origin involuntarily
6. Improve protection of domestic workers, women, children and others, including LGBT people, who have specific—and well-documented—vulnerabilities in contexts of migration. They and other people should always be included directly and meaningfully in development of the policies that affect them. In the IGAD region in East Africa for example, National Coordination Mechanisms bring together State and non-state actors, including migrant associations, to discuss all issues related to migration, an approach that the African Union is now replicating in other AU Member States.
7. Fight human trafficking with a *balance* of enforcement, against traffickers, and protection and assistance, for the women, men and children that the traffickers exploit. For example, one State representative observed that COVID-time has revealed the importance of new or expanded partnerships to improve anti-trafficking cooperation across borders, from more effective communication among law enforcement officers to development of digital systems. Participants commended the Memorandum of Understanding between Indonesia and the UAE on trafficking.
8. Strengthen protection of migrants and their family members with stronger consular mechanisms and in inter-governmental agreements at all levels.
9. bilateral labour agreements and cooperation between countries of origin and employment must step up insistence on basic worker rights and protection at international standards for all migrant workers, at all skills levels, including for workers commonly excluded on farms and in seasonal and domestic work.
10. existing mobility agreements throughout Africa and elsewhere need to be implemented and/or duplicated, within regions (like ECOWAS in West Africa) and continentally, including wider ratification and domestication of the Africa *Protocol on Free Movement of Persons.*
11. wider ratification and implementation is also due for relevant international conventions and standards, including ILO Convention 189 on domestic workers.
12. Recognize vulnerabilities as more relevant than categories. A number of participants across the States, civil society, business and city participants suggested that to be effective, protection and other policies and programmes should be framed around the real-world *similarity* in vulnerability and opportunity among migrants and refugees on the ground, rather than their categorical dissimilarity. Participants were also clear that all people on the move have rights, including to basic protection, with refugees having additional—and essential—rights to specific protection under the Refugee Convention.
13. Significantly increase investment in better data *for protection* and systems of communication, to understand the true presence, need and contributions of migrants and refugees, and share information with them. City leaders in particular pointed to the lack of data about the number and needs of newly arriving migrants and refugees, even internal migrants from rural areas or in conflict. This impedes the cities and other local actors, including civil society and business organizations, from responding to those migrants and refugees with essential services, from health care and education to employment opportunities and justice.
14. Incentivize transitions from the informal to formal employment and economies,or else it will not happen. A menu of incentives should be developed, including access to capital, worker visas and benefits matching.
15. Recall, restore and resource the essential contribution of *multilateral* action.For many of these or other actions to succeed, “multi-stakeholder” is not enough; action must also be multi-*lateral,* including within:
16. action-oriented regional and global groups and processes, as already described above
17. targeted, practical frameworks. States, business and other participants emphasized the GFMD-inspired Migrants in Countries in Crisis Initiative, ILO’s General Principles and Operational Guidelines for Fair Recruitment, the 2030 Agenda for Sustainable Development and the Global Compact for Safe, Orderly and Regular Migration. These frameworks directly address gaps in protection of migrants of all kinds, with *menus of solutions* in real-world contexts of human and economic development.
18. Finally, recognize that these solutions may be “the missing link” to improve public narratives on migrants, refugees and migration.

Participants in the twelve regional GFMD meetings saw the COVID crisis opening peoples’ eyes in many countries to the essential role and contributions migrants provide there every day: a moment for a possible *paradigm shift* in public perception and narratives. It was suggested that all of these actions here concretely help to change public perceptions and narratives on migrants —especially things like greater pathways and regularization that reduce irregular migration and status, and recognition of migrants and refugees not only as essential workers but as creators themselves of enormous numbers of jobs and businesses. Participants expressed appreciation for the new GFMD Working Group on Narratives, led by Canada; Ecuador and the Mayors Mechanism.

**V. Guiding questions**

Participants in this Roundtable are invited to consider and exchange upon the following three questions:

1. **What are the gaps,** in general and especially during the COVID-19 crisis, in the protection of migrants: in transit; in processes of admission and inclusion, including access to social services and justice, and portability of benefits; in labour agreements and the informal economy, and in return to the country of origin?
2. **How are States, civil society, businesses and cities addressing** these gaps in protection, or how can they, including on the basis of shared interest, common ground, and in different types of partnerships?
3. Which of those practices and partnerships have value to consider **not only for responding within the COVID-related crises, but for recovering from them** and for sustainable development longer-term?

**[If of value: attach ANNEX to Background Paper GFMD 2020 Roundtable Theme 4**

A sampling of practices and partnerships implemented to address gaps in migrant

protection to respond and recover from the three COVID-related crises]

***Note:*** *During the discussion of this draft in the meeting of the “Practitioner Groups” on this theme (following the Friends of the Forum meeting 1 October), States and other participants strongly agreed that* ***this paper will include such an Annex****.* ***So your input on practices and partnerships is warmly welcomed****.*

1. The SDGs, New York Declaration and the two Global Compacts are broadly consistent with relevant human rights law and labour standards, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the 1951 Refugee Convention, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights and the fundamental conventions of the International Labour Organization, among others. [↑](#footnote-ref-1)
2. Addressing this gap in protection also relates to the separate GFMD 2020 themes 1: the Governance of Labour Migration, and 5: Discussing Approaches to Prevent Irregular Migration. [↑](#footnote-ref-2)
3. Addressing this gap also relates also to the separate GFMD theme 2: Skilling Migrants for Employment. [↑](#footnote-ref-3)