

Permanent Mission of Bangladesh Geneva

Dated: 18 October 2017

Written Submission of recommendations in connection with the third thematic consultation of GCM on ""Irregular Migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications and other relevant measures" " to be held on 12-13 October 2017 in Geneva.

1. Panel 1 (Irregular migration and regular pathways):

The GCM should call upon the Member States to:

- a) Agree upon the fact that irregular migration may pose acute challenges for both States and migrants including the risk of migrants being put in danger and exposed to different forms of exploitation, forced labour and human trafficking, as well as potentially raising security concerns for the States.
- b) Ensure that the rights, set out in the core international human rights instruments, of all migrants irrespective of migratory status, are fully respected, protected and fulfilled, including in international borders.
- c) Agree upon completely stopping the use of the terminology "illegal migrants" and replace it with the term "irregular migrants" or "undocumented migrants" in all cases and levels, due to the fact that while the migratory movement can be "illegal" due to its non-conformity to laws, migrants themselves cannot be described as "illegal" as human beings, and such depiction can result in highly damaging discrimination and stereotyping that can fuel racism and xenophobia.
- d) Recognize that migrants in irregular situation are likely to face additional legal and practical barriers undermining their rights and freedoms and rendering them disproportionately vulnerable to discrimination, marginalization and abuse, and to spell out firm undertaking to treat them with dignity and confer them all human rights.
- e) Recognize the fact that irregular migration takes place not only due to "push factors" like economic hardship, lack of livelihood, lack of access to basic services, weak rule of law, political and social unrest, ethnic and other types of discrimination, lack of access to or absence of quality higher education etc., but also due to "pull factors" in destination countries like motive of family reunion due to prohibitive immigration laws, organized gangs of human trafficking, immoral employers willing to enhance profit margin by paying lesser remuneration to irregular migrants, cultural and linguistic influences due to globalization and colonial past, allure of lucrative admission process by profit-based educational institutions in destination countries, unethical and exploitative recruitment by recruiting agencies in the country of destination etc.
- f) Also recognize the fact that a large portion of existing global irregular migrants entered in countries of destinations as regular migrants with proper documentations, but later become irregular not due to their own negligence or non-abiding by the laws but due to factors like

unscrupulous activities of their employers, lack of understanding of or information on local immigration policy, discrete changes of immigration laws not taking account of well being of existing migrants, conflict situation in destination country, lack of access to immigration service due to administrative, geographical and linguistic barrier,, lack of access to appropriate legal aid, existence to anti-migrant sentiments among law enforcing and immigration authorities etc.

- g) Accept the fact that States can mitigate irregular migration while also helping to address labour gaps and demographic challenges by creating more regular migration pathways, as restrictive measures aimed solely at preventing irregular migration often fall short of reaching their objectives in the long term.
- h) Design legal pathways out of irregularity, including through adoption of principles and guidelines for national regularization programmes that offer opportunities for regularizing the status of migrants in an irregular situation within a reasonable period of time and pursuant to transparent, non- discriminatory, defined criteria and legislative reforms which allow workers to change employers without losing their regular status.
- i) Open new channels for regular migration, particularly for low-skilled workers, such as through closer placement of labour migration policies to labour market needs, youth and women apprenticeships, vocational training, entrepreneurship, study abroad, and family reunification.
- j) Recognize and Encourage “temporary and circular labour migration” schemes as positive options, not only for migrant workers and their families but also for countries of destination and origin, in terms of filling genuine short-term labour and skills gaps in certain sectors as well as opening legal pathways.
- k) Establish a stringent inspection mechanism for looking into those businesses that operate in the informal economy and formal businesses that use informal employment to exploit migrant workers, as well as employers whose irresponsible or motivated acts result in irregularity of migrant workers, and formulate legal framework to address these negative acts.
- l) Agree that while the Compact would aim at ensuring safe, orderly and regular migration and thus thereby gradually eliminating irregular migration globally, it should also address ways and means ensuring rights and welfare of existing large number of irregular migrants globally. May emphasize that one important way to reduce number of such existing irregular migrants is to undertaking legalization process for irregular migrants who are staying in countries of destination for a long time or born there.
- m) Take into account the fact that for many irregular migrants living in destination countries for long time or being born there, including migrant children, expulsion cannot be an option as these people has invested their lifelong economic, social and human capital in destination countries, and thus cannot be uprooted randomly as per the principle of social justice, and thus ways for regularization need to be open for them.
- n) creation of a mechanism for formalizing informal intermediaries as responsible stakeholders along with the formal recruitment agencies through sensitization and incentive programmer with a view to preventing irregular migration.

2. Panel 2 (Decent work and labour mobility):

In the GCM, the Member States should agree upon:

- a) Including in the Compact provisions to facilitate labour mobility, and to promote ethical recruitment and decent work for migrant workers.
- b) The fact that in many societies, migrants in low-skilled jobs are, despite existing negative perceptions, create positive effects on the broad economy.
- c) Promoting of fair and ethical recruitment through framing appropriate laws, rules and regulations in line with the ILO General Principles and Operational Guidelines for Fair Recruitment and ensuring their enforcement.
- d) Ensuring cooperation and coordination within countries of origin and between origin and destination countries to ensure fair and ethical recruitment of migrant workers, including the sharing of good practices in the recruitment regime.
- e) Ensuring greater communication to all stakeholders, including migrant workers and their families at the grassroots level, regarding government rules, regulations and initiatives as well as private sector initiatives related to fair and ethical recruitment.
- f) Promote international benchmarks on ethical recruitment such as International Recruitment Integrity System (IRIS) Standard developed by IOM with a multi-stakeholder coalition of stakeholders and the General Principles and Operational Guidelines for Fair Recruitment formulated by ILO.
- g) Enacting necessary laws ensuring equal treatment for migrant workers under the employment laws of the countries of destination. In this connection, support the adoption of measures, like sector-wise work permit that allow workers, especially lower skilled workers, to change employers in countries of destination in order to promote their mobility while reducing their vulnerability to exploitation that is associated with single-employer work permits.
- h) Promote the development of guidance to formulate gender sensitive employment terms and conditions, in particular for domestic workers, and ensure that all efforts are gender sensitive.
- i) Work collectively on effective mechanisms to lower migration costs, including by capping visa-trading, with the cooperation of origin and destination countries.
- j) Promote use of technologies to facilitate ethical recruitment by drawing on good practices, the development of online grievance mechanisms to enable migrant workers to lodge complaints at any time to appropriate agencies, promote “employer-pay model” through defining recruitment fees and related costs, and also promote the use of electronic contract validation systems as a means to enhance transparency of cross-border recruitment processes and eliminate contract substitution.
- k) Foster internal labour market mobility that can be exercised by migrant workers, especially migrant workers in low-skilled, temporary positions and women migrant workers, to prevent dependency on a single employer and to reduce exploitation and abuse, and help migrants switch statuses lawfully between study, work and self-employment.

3. **Panel 3 (Recognition of skills and qualifications and relevant measures):**

In the GCM, Member States should agree upon that:

- a) Governments should work closely with the private sector, trade unions and employers' organizations to identify existing and likely future shortages so that migration can be an essential strategy to mitigate labour and skills shortages. Many developed countries, as due to the shrinking of domestic labour pools due to ageing populations and falling birth rates, should be encouraged to look abroad to fill worker shortages at all skill levels.
- b) Governments should collaborate in enabling the recognition of skills and qualifications that facilitate labour mobility while preventing deskilling and underutilization, especially through building long-term genuine strategic partnerships between countries on joint skill development and harmonization of educational standards. Additionally, States need to take measures that recognize and promote the competencies of lower skilled workers. Furthermore, educational exchange programmes and opportunities for traineeships and apprenticeships can be explored as a means of fostering student mobility, given the growing recognition of its importance to labour migration management.
- c) Governments should undertake multi-stakeholder methodologies, taking into account the complex, interdisciplinary and multi-jurisdictional nature of migration governance, to facilitate skills partnerships with private sector and civil society actors, including trade unions, migrant associations, and Diaspora groups, in order to ensure holistic approaches that promote burden-sharing while minimizing negative policy outcomes including potential development deficits for countries of origin.
- d) States should actively consider signing and ratification, if already has not done so, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 and incorporate the protections offered by the Convention into their national legal structures.
- e) The suggestion of the UN SRSG for International Migration to establish a global information platform on skills and mobility for employment, that would allow governments, employers, recruiters, trade unions, education and training institutions, regional organizations, industry associations and other relevant actors to address the multiple policy challenges involved in developing skills and managing labour mobility in a comprehensive manner, should be implemented as soon as possible.
- f) Countries of destination should develop mechanisms to facilitate skills and credential recognition.
- g) Governments should ensure availability of skills recognition and development programmes as well as vocational training and also should ensure that these are adapted to the needs of migrant workers, including those in temporary programmes, and be responsive to labour market needs.
- h) States, both origin and destination, should endorse Global Skills Partnerships to make skilled migration more beneficial to migrants as well destination and origin countries, allowing

mutual gains by taking advantage of large international differences in both professional earnings and training costs while adhering to human rights and international labour standards.

- i) States should foster the development of regional and global platforms for sharing data on labour market needs to improve skills and jobs matching and more regular pathways for migration, as well as the promotion bilateral and multilateral frameworks for migrants' skills assessment and recognition.
- j) Destination countries should ensure that the roles and responsibilities of employers both within employment and the recruitment process are clearly outlined to promote employers' due diligence within the recruitment process as well as when working with sub-contractors and suppliers within their supply chain.
- k) Labour inspection services should be strengthened to ensure supervision of the working conditions in all sectors, and to establish and effectively implement binding firewalls between complaint mechanisms and labour inspection services and immigration enforcement authorities, and between public and private service providers and immigration enforcement authorities to ensure migrants can access justice, health, education, housing and other services on a non-discriminatory basis and regardless of nationality, migration or residence status.
- l) States must ensure that all migrant workers engaged in remunerated labour enjoy fair and equitable provisions of social security. For this, national and international measures to address eligibility requirements are to be adopted. Measures are also needed to address issues like lack of social security provisions in bilateral labour migration agreements, limitations in portability of benefits, information and language barriers etc.
- m) Governments should ensure that national laws, including constitutional, administrative and civil and labour codes, are coherently linked with employment policies and provide migrant workers with the same rights and protections extended to all workers, including minimum wage protection systems, equitable compensation, benefits and access to health and social services.
- n) States should undertake, in consistency with principle 2 of IOM's MiGOF, a "whole-of-government" approach to operate well-functioning labour migration policies ensuring horizontal and vertical integration throughout national and sub-national administrations and departments.

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