

Asia Regional Civil Society Consultation on the Global Compact for Migration

4-5 August 2017
Bangkok, Thailand



Migrant Forum in Asia
www.mfasia.org

I. Summary

The Asia Regional Civil Society Consultation on the Global Compact for Migration was organized on 4-5 August 2017 in Bangkok, Thailand. The consultation had 73 participants coming from 16 countries namely: Bangladesh, Cambodia, Hong Kong SAR, India, Indonesia, Israel, Lebanon, Malaysia, Myanmar, Nepal, Philippines, Singapore, South Korea, Sri Lanka, Taiwan, Province of China and Thailand. The participants of the consultation were nominated by regional networks representing migrant organizations, refugee rights organizations, trade unions, women's organizations, children's rights organizations and humanitarian organizations. The consultation was the first of a series of regional civil society consultations around the global compact for migration.

The consultation aimed to bring together Asian CSOs to discuss, come up with recommendations and mechanisms for a rights based Global Compact for Migration. The consultation also aimed to bring Asian CSO together to strategize how CSOs can strengthen engagement around the global compact at national and regional levels.

The first session of the program focused on providing an overview of the progress of the Global Compact and updates on the Asia and Pacific Inter-governmental consultation on the Global Compact for Migration. The remainder of the consultation focused on providing inputs and recommendations for mechanisms that can be included in the Global Compact for migration. The discussion focused on 8 key thematic issues identified by Asian CSOs

1. Human Rights of Migrants
2. Children in the Context of Migration
3. Women
4. Decent Work
5. Participation, Mobilization and Accountability
6. Return, Repatriation and Reintegration
7. Drivers of Migration
8. Mixed Migration

The consultation utilized a combination of workshop, world café and plenary discussion to generate inputs for the consultation outcome document. The outcome document of the regional consultation will be submitted as the CSO contribution to the UN ESCAP regional consultation on the Global Compact for Migration. The outcome document will also be used by CSOs for lobbying and advocacy with its national governments in the lead up to the negotiations of the global compact in February 2018.

The Asia consultation was anchored by Migrant Forum in Asia and was organized in collaboration with Asia regional networks working on migration. The following regional organizations co-organized the program:

- Asia Pacific Refugee Rights Network (APRRN)
- ASEAN Services Employees Trade Union Council (ASETUC)
- Global Union Federations (GUFs)
- Caram Asia
- Global Alliance Against Traffic in Women (GAATW)
- International Domestic Workers Federation (IDWF)
- Solidarity Center
- South Asia Regional Trade Union Council (SARTUC)
- Task Force on ASEAN Migrant Workers (TFAMW)

II. Asia Regional Civil Society Consultation on the Global Compact for Migration

On September 19, 2016, the United Nations General Assembly hosted a High-Level Summit in New York on the large movements of refugees and migrants. The summit marked the first time world leaders, heads of state and government, came together at the UN with the aim of improving international cooperation and governance of migration and refugee issues. As a result of the high level summit, member states committed to negotiating a global compact for refugees and global compact for safe regular and orderly migration.

A consultative process to seek input from governments, civil society and experts has been agreed. Between April and November 2017 there are six thematic consultations scheduled – human rights of all migrants, addressing drivers of migration, international cooperation and governance of migration, contributions of migrants and diasporas, smuggling of migrants, trafficking in persons and contemporary forms of slavery, and irregular migration and regular pathways. There will be one regional consultation for the Asia-Pacific region scheduled to take place in Bangkok, hosted by UNESCAP. A series of national consultations is also being supported by IOM.

The Asia Regional CSO consultation is the first of a series of CSO consultations around the Global Compact for Migration.¹ CSO consultations are also being organized in other regions namely: West Asia, Africa, Europe, North America, Latin America, and the Pacific.

The Asia process of engagement around the global compact for migration started as early as 2016 when Asian regional organizations convened for the Asia Civil Society Days (ACSD) to discuss governance of migration, rights and justice in the context of migration. The ACSD was held during the Global Forum on Migration and Development (GFMD) in Dhaka, Bangladesh. The one day conference aimed to discuss what rights based migration governance means given the ongoing global discourse on a global compact on migration. The program also included discussions on rights and access to justice for migrant workers. The collective output of the ACSD was submitted as the Asian CSO position paper to the 2016 GFMD.

As a follow-up to the ACSD a regional training on understanding mixed migration and the global compact for migration was also organized by Migrant Forum in Asia, the Asia Pacific Refugee Rights Network (APRRN) and the Global Alliance Against Women (GAATW) in April 2017. The program aimed to bring together migrants refugee networks to have a clearer understanding of the discourse of mixed migration, how mixed migration is happening in Asia and how migrants and refugee groups can engage in the process of the Global Compact for Migration.

In preparation for the Asia CSO regional consultation a partners meeting was also organized in Berlin, Germany during the 2017 GFMD. The program was organized in order to maximize the strong presence of Asian Civil Society Organizations in the 2017 GFMD. A total of 45 individuals from different Asian Civil Society Organizations participated in the meeting in Berlin.

During the partners meeting the discussion focused on updates on the process of the Global Compact for migration based on the discussions in the GFMD. The partners meeting as well discussed issues that will be prioritized by Asian CSOs for the Compact for Migration. The priority issues identified in the partners meeting in Berlin served as the key themes for discussion in the Asia Regional Consultation. The partners initially identified 14 issues that reflect the concerns from the

¹ More information on the CSOI consultations can be found here: <http://refugeesmigrants.un.org/regional-civil-society-consultations>

Asia region. The list was eventually narrowed down to 8 key thematic issues which served as the basis for discussion for the Regional CSO Consultation.

In preparation for the program, the MFA circulated the list of issues and requested participants to provide inputs and recommendations for mechanisms that can be put forward for discussion in the regional consultation. In order to facilitate a more substantial discussion for the program, facilitators with expertise on the thematic issue were also identified beforehand. The facilitators were involved in designing the workshop sessions and world café, the methodology used to facilitate inputs for the thematic sessions.

The following recommendations were put forward by participants as a result of the discussion and deliberations. The recommendations highlight the operational dimension of the GCM that needs to be embedded in international framework and commitment.

Theme 1: Human Rights of Migrant Workers

1. The global compact for safe, orderly, and regular migration should adhere to and build upon the New York Declaration for Refugees and Migrants
2. We call for an effective implementation and monitoring of the UN core international human rights treaties, and the ILO conventions and core labour standards
3. We call for an effective implementation and monitoring of other UN Conventions and Protocols relevant to migrants and members of their families, such as the UN Convention on Refugees, and the UN Convention against Transnational Organized Crimes / Palermo Convention and its Protocols.
4. We call for an effective implementation and monitoring of other global commitments as stipulated in the Vienna Declaration and Program of Action (1993), the Cairo Program of Action (1994), the Beijing Declaration and Program of Action (1995), the Copenhagen Declaration and Program of Action on Social Development (1995), the ILO Recommendation concerning HIV and AIDS and the World of Work (2010), and the Political Declaration on Ending AIDS (2016).
5. States should implement commitments in the 2030 Agenda for Sustainable Development which was adopted in September 2015, and the 2015 Paris Climate Agreement which was adopted in December 2015.
6. States must adhere to the principle of equality of treatment and non-discrimination and take all measures to eliminate racism, xenophobia, marginalization, religious intolerance, discrimination based on nationality or lack of, gender-based discrimination, sexual orientation, identity and expression (SOGIE), and all other forms of intolerance, discrimination and violence towards migrants and their families.
7. Response to migrants in countries in crisis must transcend humanitarian actions, and adopt the development approach promoting protection and empowerment of migrants. It must go towards a development approach, and must promote protection and empowerment of migrants. It is necessary to transcend the divide between humanitarian assistance and development work, for the purpose of delivering better results for people impacted by the crisis and broaden development gains.

8. Utilize, strengthen or develop global, regional, bilateral and national platforms/ mechanisms to monitor, review the implementation of the Compact; with substantive participation at all levels of migrants and their families, and other stakeholders

Theme 2: Children in the Context of Migration

1. We call for an effective implementation and monitoring of the Convention on the Rights of the Child (CRC) to ensure that all children in the context of migration, including refugees, have access to services and programs which should be in the best interest of the child.
2. No child should be detained or deported based on their own and/or their parents'/guardians' immigration status, and family unity should be made accessible outside detention.

As an alternative to detention, *all* children in the context of migration should be allowed to remain with their family members in non-custodial community-based context.

Children need to have access to health and education, wherein care must be non-custodial.

3. For non-immigration offences of children in the context of migration, the juvenile justice system needs to be child-centric whereby children are not treated as adults and should have legal representation; carers are licensed and trained with sensitivity to religious, spiritual, cultural, sexual, gender, and physical identity. Access to appropriate education to acquire literacy skills should be made available for the child. Children need rehabilitation or restorative homes or shelters, and not prisons.
4. We call for family/guardians' unity and non-separation with the child (ren) in non-custodial community-based context. Family reunification for separated families should be prioritized regardless of legal status, and have the rights for locating family members. There should be no deportation of children whose parents remain in detention and/or in the transit or destination country. Moreover, housing should reflect the needs and structure of the family *including* extended family such as aunts, uncles, grandparents, etc.
5. All children in the context of migration including refugees should have access to public education, which is free and of quality, regardless of immigration status to enable a more inclusive education and social services. There should be compulsory education until at least 15 years of age and should be allowed to continue beyond 15 years of age.
6. Universal health coverage, including financial risk protection, access to quality essential health care services and access to safe, effective, quality and affordable essential medicines and vaccines should be guaranteed for all children in the context of migration, and should not be dependent on the legal status of the child and the child's parents. Private sector responsibility should also be asserted and execute government policies e.g. facilities for persons with disabilities and special needs
7. No child should be subject to child labour and contemporary forms of slavery. In situations where a young person is employed, there should be legal consent of guardian or parent or the government's approval. Employers of child labour should be penalized and should have more stringent penalties.

8. In situations of conflict or war, no child should be conscripted as child soldiers for armed forces, armed groups, and other militia groups
9. Special protection measures should be established, implemented, and monitored for child soldiers, those who are trafficked (including but not limited to labour and sexual exploitation), children in conflict, those used as drug-mules, and children forced into marriage
10. States must adhere to the principle of equality of treatment and non-discrimination on the access to services for children in context of migration, including those with special needs and disabilities
11. Children in the context of migration, especially children born in countries of destination where parents have already migrated, should have access to birth and other vital civil registration, including pathways to nationality and citizenship, and provide safeguards against statelessness
12. Migrants who have their child (ren) in the workplace should have access to child care facilities and services such as early childcare development centers.

Theme 3: Women in Migration

1. States should comply with international commitments, implement, monitor, and promote and enforce non-discriminatory laws and policies on decent work for women migrant workers with the right to regularization pathways. States should also operationalize the principles as stated in the decent work agenda, with respect to women.
2. Women should be free from all forms of discrimination and violence, including intersectional discrimination on the grounds of gender, race, nationality, sexual orientation, migration status, pregnancy, maternity and other grounds. Non-discriminatory laws and policies should also be ensured.
3. We call for the recognition of the importance of women as part of decision-making processes, including migrant women organizations and migrant women themselves.
4. Women migrant workers have the right to access all services, facilities, health care, reproductive health services, and education for girls in the country of destination, transit, origin and return.
5. States should provide access to justice and due process for women at all stages of migration, including the provision of free legal aid and access to gender-responsive and culturally appropriate legal representation, counselling, information and other material assistance, including interpretation and translation services to all migrants to enable their access to rights such as the right to an individual examination, a judicial and effective remedy, the right to appeal and support in the defense of claims. Upon exhaustion of national justice processes, provide access to regional or international mechanisms.
6. Women have the right to freely choose a partner, and this should not have any repercussions on their immigration status

7. Right to access to communication: Migrant workers should be given or be allowed to have, in their position, means and tools of communication.
8. Women should have the right to return and reintegration

Theme 4: Decent Work

1. We call for an effective implementation and monitoring of the binding commitments on decent work, as enshrined in UN core international human rights treaties, the ILO conventions and core labour standards, and other key treaties relevant to decent work for migrant workers (1951 Refugee Convention and 1967 Protocol; C181: Private Employment Agencies; C189: Domestic Workers; C143: Migrant Workers (Supplementary Provisions); C97: Migration for Employment; C19: Right to Compensation; C118: Equality of Treatment (Social Security) Convention (1962); C19 on Equality of Treatment)
2. We call on governments and the private sector to comply with other global commitments, international normative standards and recommendations on decent work for migrant workers such as the ILO General Principles and Operational Guidelines for Fair Recruitment, ILO's Multilateral Framework on the Protection of Migrant Workers, the UN Declaration on the Right to Development, the World Conference Against Racism Program of Action, Cairo Conference on Population & Development Program of Action, 4th World Conference on Women, Beijing Platform of Action, and recommendations from relevant treaty bodies and special procedures
3. Labour rights and decent work at the national level should be ensured in countries of origin and destination, which include right to a living wage for all workers, occupational health and safety as an element of decent work, and the right to just and fair terms of employment and conditions of work. National laws, policies, mechanisms, and practices should be aligned, integrated, implemented, and reformed in accordance with international standards.
4. Universal social protection for all migrant workers needs to be ensured in countries of origin and destination, as guaranteed in ILO treaties and in other international and regional commitments
5. States must adhere to the principle of equal treatment and non-discrimination between local workers and migrant workers in the context of work. Decent work standards / principles for migrants should be applied. The minimum requirement is to adhere to ILO core labour standards.
6. Gender inequality and gender discrimination in the context of work should be eliminated, more notably promoting and ensuring equal pay for equal work between men and women.
7. We call for fair recruitment, recognizing and adhering to an employer pays Principle and zero recruitment fees charged to the migrant worker.
8. Migrant workers should be able to terminate the employment relationship if they experience abuse and /or any form of exploitation in the workplace. They should also have freedom of physical mobility. This should be stipulated in a standard employment contract, aligned with international standards.

9. Right to access to complaints, redress and justice system in both countries of origin and destination must be ensured.
10. Ensure global, regional, multilateral, bilateral, national mechanisms on monitoring, compliance, reporting to protect, promote decent work for migrant workers. Bilateral agreements should adhere to international labor standards; should undergo tripartite process; should establish review and monitoring mechanisms. There are good models of bilateral agreements and good elements for inclusion in multi-lateral agreements, which can be used where necessary.

Theme 5: Participation Mobilization and Accountability

1. The role and participation of migrants, civil society (migrant organizations, independent trade unions, faith-based groups, women's organization, academics, advocates, lawyers, media, and human rights defenders), private sector, media, and the governments (including Missions, embassies, consulates, NHRIs, policymakers, legislators), regardless of where they are located, must all be substantively and equally recognized and respected.

Migrant women should be able to participate in the decision that affect their lives and have access to decision making and leadership roles.

2. State must ensure that the drafting, implementation, monitoring and evaluation of laws, policies, and mechanisms, should be an inclusive, consultative, participatory, transparent and accountable process; these should be based on credible quantitative and qualitative data and analysis and good governance principles.

Theme 6: Return Repatriation and Reintegration

1. The right to mobility and freedom of movement (within and outside the country) are guaranteed by international law as basic human rights i.e. the right to leave, and the right to return to one's own country
 - Universal Declaration of Human Rights Article 13: (1) Everyone has the right to freedom of movement and residence within the borders of each state; (2) Everyone has the right to leave any country, including his own, and to return to his country;
 - Right to mobility, reintegration of migrant workers and their families: guaranteed in 1990 UN MWC, ILO standards;
 - Right and freedom of movement of ALL migrants, migrant workers and their families need to be ensured
2. On return and reintegration in the context of labor migration, migrant workers have the right to return to their countries of origin at the time of their own choosing. It is the responsibility of origin and destination countries to ensure clear, accessible procedures for documented MWs to be able to safely and expeditiously return home after finishing their contracts. Labour migrants who are in distress and are unable to finish their contracts due to abuse in the workplace, forced labour, wrongful termination and any other labour rights violations also have the right to choose to return home to their country of origin at the time of their choosing.

3. Return, repatriation and reintegration in the context of undocumented migrants:
 - Undocumented and irregular migrants and people seeking asylum should not be criminalized nor detained. Documentation status is an administrative issue and not a criminal offense.
 - Access to pathways for regularization programs and permanent residence for undocumented migrants and independent access for migrant women.
4. Rights of survivors of human trafficking, smuggling, illegal recruitment, forced labor should be respected and protected in accordance with international laws, standards. Anti-trafficking policies should not be anti-immigration policies. Rights of victims of trafficking and migrants need to be protected.
5. General principles that should be in the Global Compact with regard to deportation:
 - Mass deportation or collective expulsion of migrants and their families is prohibited by international law (MWC, Art. 22); arbitrary arrest and detention of migrants or their families is also prohibited (MWC, Art. 16)
 - Guarantee that the principle of non-refoulement is inviolable
 - Prohibit detention and deportation of children
 - “Voluntary” return schemes (such as the IOM-administered AVRR) should be truly voluntary and free of all coercive measures and leave returnee migrants with effective access to asylum procedures if necessary
 - Prohibit double jeopardy or unfair punishment of migrants - a migrant judged guilty of offenses should be subjected to the same sanctions specified in the law; no additional punishments, esp. detention and deportation. No inhumane, degrading and other forms of punishment as guaranteed in international law
 - Prohibit privatization of the criminalization of undocumented migrant workers
 - Health status should not be a reason for deportation. There should be no mandatory health testing for all migrants
6. Return, repatriation, reintegration of migrants in situations of crisis, emergency, conflict, stranded migrants:
 - Migrants caught in crisis and conflict situations also have the right to return to their countries of origin
 - Right to return for stranded migrants need to be ensured (migrants who cannot get exit pass/ exit permits as their sponsor refuse to pay fees or sponsor disappeared, migrant unable to pay for documentation to travel; no exit pass);
 - Migrants who are unable to travel due to terminal illness or due to lack of documentation should not be forcibly deported
 - Return, repatriation, reintegration of women migrants; gender dimensions
 - Protection from gender-based violence need to be ensured at all times in particular in mass deportations of migrant workers
 - Pregnancy should not be a reason to deport women migrant workers. Reproductive rights of women need to be ensured in the whole process of migration, including during return and reintegration
 - Women should have access to equal employment opportunities upon return and reintegration
 - Women should have access to regularization pathways, independent access to documentation and independent residence.

Theme 7: Drivers of Migration

1. Countries should recognize poverty as a driver of migration and address the lack of access to employment and decent work in countries of origin, including the lack of sustainable economic and social reintegration programs. Countries should also recognize the cause and effect of privatization of public services, resource, and land-grabbing by the private sector and the government.

Migrant workers should not pay to get a job in countries of origin and destination.

There should be non-discrimination on national labour laws in countries of origin and destination.

Countries should respect, uphold and adhere the principle on business and human rights.

2. As climate change causes destruction of properties and livelihood, which displaces people (both internally and externally) whether temporary or definitive, countries must ensure community resilience and promote disaster risk reduction and management.
 - recognition of the legal category of climate refugees
 - Common But Differentiated Responsibilities (CBDR) principle should be recognized and respected
 - private sector should be accountable to climate chaos/environmental destruction especially in extractive industries.
 - There should be right to free and clean water (as opposed to access to clean water)
 - Ensure inter-generational equity
 - Inclusion of special concerns and needs of women and children
 - Recognizing the link between delayed mitigation action and increased number of climate refugees
3. In situations of conflict, war, ethnic tensions, and widespread terrorism, no person should be deprived of their right to live in peace, as well as access to resources and services without discrimination and unequal treatment on the basis of race, religion, gender, or legal status. Such situation also include conflict and violence and political instability, climate of impunity, breakdown of peace and order, and cultural cleansing.

There should be recognition of Refugee Convention, including the right to inclusion and reintegration, the right of refugees to own property, their right of refugees to establish businesses, and the right to protection, access to justice and right to work for refugees. No country or no government should have any legal authority to deprive any existing national of his/her citizenship, and must ensure the right to claim asylum. Rather, they should promote and uphold international humanitarian law
4. Countries should also recognize the social pressures and perception in relation to migration. This includes the family pressure for economic stability, escape from domestic violence, discrimination from community, the lack of social protection in countries of origin, disease outbreaks, love and reunification, and the perception of destination countries having more and better job opportunities.
5. Migrants' contribution to social and economic development should be recognized given the demand of labour in countries of destination. We strongly oppose neoliberal agenda and

globalization. We call for the end of the commodification of migrant labour in both origin countries and destination countries. Countries should facilitate and not restrict entry of migrants. Distinction between skilled and low-skilled workers should also be eliminated

Theme 8: Mixed Migration

1. The Global Compact for Migration should adhere to and be guided by the four Humanitarian Principles – humanity, neutrality, impartiality, and independence
2. International maritime laws such as the United Nations Convention on the Law of the Sea of 1982, (UNCLOS), the International Convention for the Safety of Life at Sea of 1974, as amended, (SOLAS), the International Convention on Maritime Search and Rescue of 1979, as amended, (SAR), and the 1958 Convention on the High Seas (to the extent that it has not been superseded by UNCLOS). These Conventions explicitly contain the obligation to come to the assistance of persons in distress at sea. These include, but are not limited to, access to medical services, access to food, access to shelters, and communication with family/community
3. Principle of non-refoulement, including indirect non-refoulement, is inviolable in all situations
4. Countries of transit and destination must adopt protection-sensitive entry systems based on UNHCR's 10 Point Plan of Action on Refugee and Protection and Mixed Migration. This includes non-criminalization / detention; non-use of trafficking and smuggling arguments to justify criminalization of migrants, refugees and people seeking asylum; non-discrimination of race/religion/class/gender/sexual orientation/mode of arrival by means of entry; right to claim asylum regardless of their status to prohibit off shore processing and off-shore detention; asylum of off-shore processing
 - access to justice (i.e. legal aid, legal representation, due process, no delays). Firewall between access to justice and immigration control.
 - services based on need; vulnerability screening; special protection for persons with disabilities, pregnant women, women survivors of SGBV or in situations of vulnerability, children, elderly, vulnerable groups (including those in critical health situations)
5. In addressing mixed flows, we should go beyond humanitarian response and adopt development approach. "It is necessary to transcend the divide between humanitarian assistance and development work, for the purpose of delivering better results for people impacted by the crisis and broaden development gains." (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien speech at Economic and Social Council's Humanitarian Affairs Segment, June 2016)

This includes recognizing the right to decent work of undocumented migrants, people seeking asylum and refugees; pathways to residency, regularization and citizenship. Independent pathways for women (from partners)
6. Existing international and regional platforms should be utilized for international cooperation, solidarity, and shared responsibility.
7. We call for explicit protection and safeguarding measures and mechanisms for migrants, asylum seekers, and refugees from all forms of violence and abuse

8. All should have integration and regularization options whereby they are given access to regularization programs to obtain documentation regardless of their mode or means of entry, as well as the right to family reunification. Women should have access to independent status and residency. Social inclusion and integration options for migrants, people seeking asylum and refugees should be promoted.
9. Principles stated in the thematic on children in the context of migration should include children in the context of mixed migration
10. Principles stated in the thematic on women in migration should include women in the context of mixed migration.

Annex I:

Recommendations for Programs, Policies, and Mechanisms that need to be Introduced in Order to Demonstrate a Rights-Based Approach to Migration

THEME 1: HUMAN RIGHTS OF ALL MIGRANTS
OPERATIONALIZING POTENTIAL
<ul style="list-style-type: none">• Address the 24 elements of the GCM as specified in the Annex II of the New York Declaration for Refugees and Migrants; put in place implementing mechanism, including those recommended in the Annexes of the declaration with the timeframe to coincide with the 2030 Agenda for Sustainable Government
<ul style="list-style-type: none">• Develop ratification and implementation plan and domestication of core UN and ILO treaties providing migrant workers full protection in national law, policy and practice.• Ensure that national laws guarantee migrants' right to freedom of association, representation and ensure full coverage of fundamental labour rights equal to local workers.• Develop mechanisms to operationalize (complaints mechanisms: article 79 of the MWC 1990, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (OP-CEDAW), which establishes complaint and inquiry mechanisms for the CEDAW, complaint mechanisms of UN Special Procedures• Establish independent, institutionalized monitoring mechanisms to look into the situation of migrant workers and empower the national human rights institutions (NHRIs) / national human rights commissions (NHRCs), and judicial authority, to investigate and report on the situation of migrants.<ul style="list-style-type: none">- NHRIs/NHRCs to forge bilateral agreements to collaborate on the program for the protection of migrants- Call for implementation and monitoring and to call for (e.g. independent commissions, like the national human rights institutions) at the national level.
<ul style="list-style-type: none">• Develop pathways for regularization and permanent residency and citizenship
<ul style="list-style-type: none">• Operationalize in national laws and mechanisms;• Establish an independent monitoring system such as independent commissions;• Anti-trafficking mechanisms: effective implementation the UN Convention against Transnational Organized Crimes / Palermo Convention and its Protocols
<ul style="list-style-type: none">• Review all programs, projects, and mechanisms established to implement commitments and with the view to ensure that migrants are included as stakeholders and beneficiaries to ensure participation.
<ul style="list-style-type: none">• 2030 Agenda for Sustainable Development, Paris agreement: Develop national level rights-based migration specific targets and indicators which are time-bound and adequately resourced with the inclusion of migration targets in the Philippine development plan as an example.• Provide decent, secure work/employment in countries of origin• Establish an independent multi-stakeholder national level monitoring body to review the progress of the implementation of goals related to migration.• Develop measures to effectively address root causes/drivers of migration in particular climate change.• Ensure that trade agreements do not undermine human rights and the 2030 Agenda for Sustainable Development in countries of origins; reject agreements that empower private sector/corporations to sue States (e.g. for protecting essential social services, primary economic sectors)
<ul style="list-style-type: none">• Implementation of policies/mechanisms at national level that are gender-responsive, guarantee equal treatment and ensure access to essential public services and promote access to justice.

- Ensure “firewalls” that separates immigration enforcement activities and public service provision.
- Repeal discriminatory laws, policies, regulations and practices that encourage or promote discrimination.
- Tiering / allocation of migrant workers to certain occupations, jobs, roles, tasks according to nationality should be eradicated and discontinued

- Develop national policy and national disaster plan that adhere to international standards or guidelines with the Migrants in Countries in Crisis (MICIC), Red Cross standards, as examples.
- Humanitarian response should ensure safety, equal protection, and access to essential services, protection from violence, safe disembarkation and reception.
- Provide social protection and development-oriented options, including inclusion and integration options
- No crackdown of undocumented migrants, or the targeting of migrants for expulsion during economic downturns and crisis situations
- Ensure that migrants and their representatives have immediate and effective access to judicial bodies to demand accountability/appeal for/against any action or non-action with regard to the situation of migrants and refugees.
- Develop sub-regional, regional, multilateral cooperation agreements that promote shared and differentiated responsibility. Examples are ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers which call on ASEAN members to extend assistance to migrant workers of ASEAN Member States who are caught in conflict or crisis situations outside ASEAN.

- Bilateral agreements between countries, institutions including NHRIs/NHRCs (in countries of origin and destination) and trade unions, in monitoring compliance.
- Develop a national action plan to implement the GCM
- Establish an independent arbitration body at the country level e.g. Ombudsman or independent commissions
- Maximize existing regional processes such as ASEAN, SAARC, Colombo Process and Abu Dhabi Dialogue
- Maximize existing reporting mechanisms on implementing global commitments such as the Universal Periodic Review (UPR), UN treaty bodies, the UN High-level Political Forum on Sustainable Development (HLPF), Global Forum on Migration and Development (GFMD), and UN High-Level Dialogue (HLD) and incorporate in their reporting the development of the GCM.

THEME 2: CHILDREN IN THE CONTEXT OF MIGRATION

OPERATIONALIZING POTENTIAL

- There should be a provision of social support programs including nutrition
- For institutional care, there must be no restriction of movement or access to communication with their parents/legal guardians. Institutional care should be regulated, accredited, and should be in the best interest of the child.
- Community-based care needs to be regulated and sponsored/funded by the government.
- Malaysia - Malaysia has a good system on welfare homes for Malaysian children, but should be extended to children in Malaysia regardless of their nationality
- “Firewalls” should be ensured between immigration status and enforcement on one hand, AND law enforcement, access to essential public services, social protection and justice, on the other.
- If a child is accused of committing a non-immigration offence, there must be an objective assessment that does not take immigration status into account to determine whether that child should be detained or even sent to a rehabilitation center
- Establish special protection measures for children in shelters in line with the UN Convention on the Rights of the Child, 1989
- Undocumented children should not be criminalized due to their immigration status or that of their parents and/or guardians

- Education credit-certificate should be recognized and transferrable when children move (e.g. education acquired in Indonesia is valid and recognized in Thailand)
- Malaysia – Indonesian children are allowed to attend public schools (arrangement between Indonesia and Malaysia government)
- Philippines - there are existing programs and services provided by the government to assist the children left behind. Specifically, the Overseas Workers Welfare Association (OWWA) has a scholarship program for the children left behind to accomplish an undergraduate degree
- South Korea - According to the “School Register Administration Manual for Multicultural Students” of Korea’s Ministry of Education, children can receive compulsory education regardless of their immigration status
- Thailand has an Education for All Policy, which are also applicable for migrant children

- There needs to be a centralized national data system on vaccination to ensure children are given vaccines and follow-up vaccines are monitored.
- Health professionals should be sensitized to the different situations and circumstances of children
- There should be access to translators and interpreters
- Dental health – explore the possibility of adapting Australia’s program on mobile health units that are provided by governments, and to be made available to local communities
- There should be provisions on and by medical care for children affected from conflicts.
- Australia – government provides access to free dental services for schools by dentists visiting schools;
- Malaysia – vaccination for all children regardless of legal status
- South Korea - Since May 2005, migrant workers can receive financial support for emergency medical care including hospitalization or surgery. There have also been health services provided, such as free vaccination programs for migrant children and infants.
- Thailand – there is a program on a migrant’s insurance that allows migrant parents to use it for children.
- Thailand – Migrant Health Volunteer – migrant workers are trained by public hospital and are also provided by government

- Member States must ratify ILO Convention 138 on the minimum age for admission to employment and work, the ILO Convention 182 on the worst forms of child labour, the ILO General principles and operational guidelines for fair recruitment, and the UN Guiding Principles for Business and Human Rights
- Standard age of a child should be 18 years old and below

- Governments should comply with the Paris Principles on the Involvement of Children in Armed Conflict 2007, and the UN General Assembly's Resolution 1261 (1999) on children and armed conflict
- There should still be independent monitoring of rehabilitation centers (rehabilitation centers should not be akin to detention centers)
- Removal of stigma of negative identity of child soldiers

- On child marriage, there should be vulnerability screening whereby there are trained and certified trained persons on entry points and exit points. There should be vulnerability screening by trained and certified persons at entry and exit points.
- There should still be independent monitoring of rehabilitation centers (rehabilitation centers should not be akin to detention centers)
- There is also a need to proactively engage governments, trade unions, civil society, international organizations, private sector, the public, religious organizations/leaders, community and youth leaders, migrants and host community, law enforcement officials, courts, media, etc. on education, awareness, training, identification of cases, and reporting on such situations

- Access to services for children in countries of destination should be equal to locals regardless of immigration status

• Safety and safeguarding measures and facilities should be ensured for parents and those who are with the children

- Portability of birth certificates should be recognized by other countries
- All countries shall document objectively all births that occur in their territory, and such birth documents shall be recognised in all other countries
- Where birth certificates state at least one parent, and the parent's nation allows jus sanguinis, the child shall follow the parent's nationality. If not, the birth country shall give nationality via jus solis.
- Children should be able to acquire nationality of either parent where the other is not identified both in the origin and destination country
- Japan - For children born out of wedlock and without acknowledgment by the Japanese father prior to birth, it is possible to acquire Japanese nationality if the father acknowledges the child by the child's age of maturity (20 years old) and the acknowledgement is reported to the Minister of Justice (Japanese Nationality Act, Art. 3, Sec. 1)
- Thailand - Thailand has allowed migrants whose children are born in Thailand, to register and acquire birth certificates for their children, although they are not registered as Thai citizens.

• Such services and facilities should be provided by government and private sector. Such measures undertaken by private sector should be seen as part of the company's corporate social responsibility (CSR) whilst adhering to It is important to raise their involvement as part of corporate social responsibility and adhering to the guiding principles on business and human rights

THEME 3: WOMEN IN MIGRATION

OPERATIONALIZING POTENTIAL

- Mainstreaming gender does not end in simply increasing the number of women within a specific institution. Awareness raising and capacity building for staff should focus specifically on the development of indicators for implementation of a gender-sensitive and responsive culture for shelters with systems for monitoring and evaluation.
- Equal pay for equal work between men and women
- Right to increased regularization pathways and permanent residence independent of migration status
- Right to form associations and join independent trade unions, particularly for migrant domestic workers and other low-skilled and informal sectors
- Women workers should have proper living and working conditions
- Look at the existing platforms such as SAARC, ASEAN, ADD, Colombo Process, and ensure that they are contributing to the development of women migrant workers; gender-responsiveness in the implementation of these work programs
- Kuwait – domestic workers have the right to a weekly day-off, 30 days of annual paid leave, a 12-hour working day with rest, and an end-of-service benefit of one month a year at the end of the contract
- Qatar – migrant domestic workers will now be able to limit their services to 10 hours a day, 6 days a week, and be entitled to an annual holiday. They will also be given paid sick leaves and receive end-of-service benefits equal to a minimum of three weeks' wages for each year of service when their contract ends

On the right to organize:

- International solidarity (among trade unions) should lend support to workers including women migrant workers
- Hong Kong - migrant domestic workers can join unions
- Malaysia and Thailand - women in the garment sector can join unions
- Malaysia - workers can become members of MTUC but can't have their own unions.
- Hong Kong, Japan, and South Korea – migrant workers can establish their own unions

- Protectionist policies such as age restriction, and permission from male figure to leave the country should be abolished.
- Tiering / allocation of women to certain occupations, jobs, roles, tasks should be eradicated and discontinued
- Women should have the right to personal security and bodily integrity including right to sexual and reproductive health
- Remove barriers to sexual and reproductive health rights of women migrant workers. There should be no coercion, discrimination, detention or prosecution of workers who are pregnant, with children and with partners. Women have the right to maternity without repercussions.
- Women should have the right to mobility
- The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity (SOGIE) must be recognized, respected, and implemented

Capacity building for support groups for women by women including pre-departure programs and other programs i.e. gender sensitive and responsive, language and skills of migrant workers

- Ensure that there are care services and facilities
- Women migrants should be included in social security mechanisms, with special attention to those working in the informal sector
- Ensure that they have access to health care services or alternative options to health treatments, including mental health services such as counseling
- Health testing not used as discriminatory mechanism, i.e. pregnancy, STIs
- Increase state investment on care economy and public services for the population (rather than relying on inexpensive migrant labour to fill gaps in caring for elderly)
- Ensure access to a range of health treatment options, including self-care practices such as traditional remedies

- Ensure that information on the rights of women in migration are accessible and available
- Look into the role/best practices of government sectors such as embassies
- Monitor conditions of shelters and immigration detention centers for migrant workers to ensure that they are aligned with standards
- Shelters are not used in lieu of detention
- Availability of legal assistance fund and welfare fund
- Embassies should be gender-sensitive in delivery of services and provision of shelter

• Migrant workers should be given or be allowed to have, in their position, means and tools of communication.

- Holistic reintegration programs should be available and should be gender-sensitive
- Women migrant workers and victims and survivors of rights violations should have the option of independent accommodation, rather than being forced to live in the employer's home, recruitment agency or in a shelter.
- Allow migrant women who are victims and survivors of domestic violence to apply for a resident permit independently of abusive spouses. Adopt and implement domestic violence legislation that establishes legal protection against such violence with punitive measures.

THEME 4: DECENT WORK

OPERATIONALIZING POTENTIAL

- Domestic work needs to be formally recognized as work by both country of destination and origin; institutionalized in laws/policies of countries of origin and destination. Migrant Domestic Workers need to be covered by the labour laws of country of origin and destination.
- Right of migrant workers to vote / overseas absentee voting - Recognize and provide mechanisms for migrant workers to vote (e.g. Philippines Absentee Voting Law);
- Mainstream gender analysis in all the mechanisms; include women-specific clauses, parameters in labor inspection procedures, in all relevant mechanisms

- Eliminate discriminatory policies which limit migrant workers to specific types of work which are mainly considered low-skilled jobs or “3D” jobs – dirty, dangerous and demeaning jobs.
- Promote full transparency in supply chains through accountability / liability of mother companies
- Labour-sending countries to develop a skills recognition framework for migrant domestic workers to facilitate mutual recognition across countries of workers’ skills, competencies, work experience and qualifications. This could be achieved with the technical assistance of the ILO possibly drawing on the Regional Model of Competency Standards (RMCS) and the ILO Maritime Convention, IRIS of IOM, IOM guidelines for Fair recruitment
- In an effort to cut out the role of the private recruiter altogether, some governments like India have instituted e-migrate systems whereby all steps throughout the recruitment process are logged in an electronic database and overseen by government agencies in the country of origin.
- Bahrain – The Labour Market Regulatory Authority (LMRA) of Bahrain is a government entity dedicated to reform Bahrain's labour market.
- Kingdom of Saudi Arabia (KSA) – the *Musaned System* is a program initiated by the Ministry of Labor and Social Development to monitor and improve the domestic labor market. It is a new online program addressing issues concerning domestic migrant work in the KSA

- Ciett Code of Conduct – sets out acceptable standards of professional practices to which private employment services are committed and expected to operate. It has been conceived as an instrument to differentiate bona fide, ethical employment and recruitment agencies from rogue traders
- Alliance of Asian Associations of Overseas Employment Service Providers (OESPAAA) - a network of lead recruitment industry representatives from each Member State in the Colombo Process which has agreed to work towards building capacities of OESPAAA members on international standards and instruments on ethical recruitment.
- FAIR Hiring Initiative – ethical recruitment agency that has a zero tolerance for the taking of fees or gifts from anyone using our services or engaged in their business.
- Oman, Qatar and United Arab Emirates (UAE) – a Wage Protection System (WPS) is put in place whereby salaries of migrant workers are fully automated and integrated with the central bank to ensure that migrant workers are regularly paid

Mechanisms on Labour Rights Protection at country level:

- Adopt national laws on protection of migrant workers, consistent with international standards – e.g. Philippines: Republic Act 8042 as amended; Bangladesh: Overseas Employment Act and national policy for domestic workers, anti-trafficking act of 2012;
- Mainstream gender analysis in all the mechanisms; include women-specific clauses, parameters in labor inspection procedures, in all relevant mechanisms;
- Employers should not fill permanent work positions with perennial temporary (migrant) workers; pathways to regular employment;
- Abolish employer-tied visas.
- Hong Kong - The Employment Ordinance Act which is the main piece of legislation governing conditions of employment in Hong Kong establishes that all workers, including migrant domestic workers have the right to be a member or an officer of a trade union. All workers have the right to form and register a trade union. Workers who are members or officers of a trade union further have the right to participate in the activities of the union. However, such participation should take place at ‘appropriate time’ – meaning outside the workers’ working hours or anytime within the working hours, provided it is agreed by the employer
- India - Mahatma Gandhi National Rural Employment Guarantee Act of 2005: law to promote decent work in rural areas in order to address drivers of migration
- India - Overseas Workers Skills Development Program (Pravasi Kaushad Vikas Yojana, announced in 2017), skills upgrading in order for workers to have more opportunities in countries

of destination, to be able to find better jobs

- Malaysia - Workmen's Compensation Act covers undocumented migrant workers even if they are undocumented from the start. If a migrant worker is documented, there is insurance; if undocumented, there is no insurance but employer can be sued
- Singapore - Work Injury Compensation Act covers all workers including undocumented migrant workers (undocumented in their terms is when their work pass/permit has expired or terminated; they can claim compensation). The law also covers injuries that happened on the way to work, in transit to work. A Separate law covers migrant domestic workers. Does not cover, self-employed, armed forces, domestic work, contractors. A separate law covers domestic workers.
- Thailand - Thailand's Labour Protection Act covers all workers including migrant workers, however it does not cover certain sectors such as informal workers, home-based workers and domestic workers, nor seasonal workers such as in the fishing sector and agriculture. A separate law covers these workers, but implementation is problematic.
- Thailand - The Thailand Workers Compensation Act is for all workers (including migrant workers but excluding domestic workers); undocumented migrants are not qualified under Ministerial regulation, but employers are required to pay compensation directly to the migrant
- Thailand - at the Ministerial Level, the Ministry of health put up firewalls for all public hospitals. Government hospitals are not required to report undocumented migrant workers to immigration authorities, but are not required to serve them
- Thailand - migrant workers can access retirement benefits even if they are below 55 years of age – specialized cash payment through embassy in country of origin (proposed by Thai Government)

Working conditions:

- Labour Inspection - Community led inspection, migrant workers, CSOs and government officials should collaborate in labour inspections;
- Unlawful deductions of wages by recruiters and employers should be criminalized
- If employers provide for accommodations for workers, employers should not be allowed to deduct more than 10% of worker's salary (e.g. this is illegal under Thai law)
- Accommodations - Worker accommodations need to be registered and licensed including safety regulations [Australia: private entities providing substandard accommodations facilities/services: need for regulation]; Domestic workers have the options for live-out accommodations]
- No unreasonable limitations on toilet and hygiene breaks (health and safety issue); ensure periods of rest, days off, etc.
- Provide qualitative and quantitative data on labour disputes, deaths, injuries and government action (as part of monitoring and reporting process)

Mechanisms at the country level on information and education for workers; Workers rights training

- Comprehensive, rights-based (pre-contemplation and) pre-departure training for both men and women migrant workers
- Awareness training (laws in countries of destination, situation, geography, rights of workers, etc.) pre-departure and post arrival
- Philippines - MOU of the Philippine Embassy in Malaysia and SENTRO (labour center) to facilitate training for Filipino workers in Malaysia through the support of the trade unions. Post Arrival Training for Migrant Domestic Workers is done by trade unions (SENTRO).

On Standard Employment Contracts:

- Ensure that domestic workers and lower paid jobs have standard contracts;
- Standard contracts need to ensure that core labour standards are followed.
- Contracts also need to be applicable in both country of origin and destination (no contract

substitution)

- Contract should be available in the language of the worker.
- Standard contracts should be included in bilateral or multilateral agreements.
- The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public. (ILO Recommendation 201, paragraph 6 no.4.)

- Reform, enhance social protection schemes in countries of origin and destination to ensure coverage of migrant workers. Portability and accessibility should be ensured so that migrant workers do not lose coverage in process of migration. Countries of destination should include migrants, especially domestic workers, from coverage. Adopt national provident savings programs in COO so that migrants can join/maintain social protection;
- Implement ASEAN Declaration on social protection; proposal to ASEAN by GUFs 10% of GDP to be spent on Social Protection
- Commitment by ASEAN states - ASEAN declaration on social protection
- Malaysia - Employees Provident Funds (EPF) that is mandatory to Malaysians. This may be something that can be extended to migrant workers.

- All workers should have equal standing under labour laws regardless of nationality or migration status
- States must acknowledge and rethink their reliance on an exploitable and vulnerable undocumented labour force, and pursue policies that would extend to migrant workers the same rights as all other workers, regardless of race, sex, ethnicity, religion, and skill level.
- Labour rights of undocumented migrant workers should be recognized and respected and must not be discriminated

- Policies, mechanisms, practices must include provisions, guidelines, parameters, procedures to ensure gender equality and address gender gaps (wages, skills development, promotions, terms of employment, etc.)
- There should be no gender profiling for certain jobs and sectors (e.g. women working for certain jobs because they have smaller hands)

- CEDAW GR 26 recommend States to act on debt bondage arising from recruitment and other migration fees.
- Unlawful deductions of wages by recruiters and employers should be criminalized.
- ILO Guidelines and Principles on Fair Recruitment

Mechanisms in line with fair recruitment:

- ILO Fair Recruitment initiative – e.g. Nepal -Jordan project under ILO Fair Recruitment Initiative (garment sector)
- SAARC Region - Kathmandu Declaration at 18th SAARC Summit; Agenda 21 – includes: skills qualification; pre-departure; formulation of standard contract; access to information; fair recruitment; access to justice; mechanisms to hold dialogue with countries of destination; establishment of committee for labour migration; setting up of SAARC ministry for labour migration
- We call on the countries that have a non-payment of fees mechanism to be strictly implemented and ensure that nowhere in the course of employment are workers charged in a manner in which it would effectively mean fees indirectly
- Philippines - migrant domestic workers and seafarers do not pay recruitment fees. All fees shouldered by the employer.
- South Korea - Employment Permit System (EPS) of South Korea ensuring that workers do not pay Recruitment Fees

- Ensure availability of and access to free legal assistance in COO and COD in their native or primary language

- Governments should fund and establish effective complaints mechanisms that are accessible to workers
- India - The government has established an online grievance mechanism called MADAD where workers can report grievance in terms of non-payment of wages, recruitment abuse, abuse of Missions staff and even report missing migrants
- Migrant Forum in Asia established the Migrants Rights Violation Reporting System (MRVRS) used by their network for case reporting and case management.

- Ensure that free trade agreements have strong, binding and enforceable provisions that require/mandate parties' labour laws to conform with international standards and develop mechanisms to effectively enforce the agreement; higher transparency in trade agreement negotiations; have compulsory labor rights impact assessments;
- Good models of bilateral agreements – use where necessary; ensure transparent and effective formulation and implementation
- Philippine government incorporated in its 1974 Labor Code a comprehensive legal infrastructure for the recruitment and placement of overseas contract workers and regulation of recruitment and placement activities of private recruitment/placement agencies.
- Philippines and Germany Bilateral Agreement: [good elements] ensures protection of labour rights, oversight committee which includes trade unions, provides free language training for migrant workers; standard contract; non-discrimination clause; no recruitment fees; provide free pre-departure training; ensures social protection; oversight committee includes TU in the Philippines and Germany; commits to upgrade skills/health facilities in PH; pathways to citizenship
- Philippines and Hong Kong corridor that is considered good practice as the agreement allows for protection of rights of domestic workers
- EPS System of Korea ensuring that workers do not pay Recruitment Fees
- Mutual skills recognition programs, standards-setting mechanisms, e.g. in ASEAN, Mekong

THEME 5: PARTICIPATION, MOBILIZATION, AND ACCOUNTABILITY

OPERATIONALIZING POTENTIAL

Participation:

- Guarantee migrants' right to organize and to freedom of association
- Establishment of independent trade unions, and/or support groups in countries of destination, as applicable;
- Conduct/implement community based education/community awareness program on migration
- Promote tripartism ++ in social dialogue
- India and Kuwait – Indian Missions in Kuwait has established partnership with Indian community volunteers to help Indian citizens in Kuwait on behalf of the embassy
- Indonesia and the Philippines - Legislative action to ensure migrant workers' right to vote- Overseas Absentee Voting (Philippines and Indonesia) and in local elections in countries of destination with Italy as an example
- Philippines - Direct representation of migrant workers in government agencies and governance bodies/mechanisms dealing with migration (COOs and CODs) e.g. Joint Migration & Development Initiative (JMDI) processes in Philippines, etc.
- Thailand - ISSARA Institute's Golden Dreams" online app that reviews employers, recruitment agencies and service providers (Thailand)
- Organizing returnee migrants and their families to mobilize, advocate, assert participation on their issues and concerns; e.g. work of POURAKHI, PNCC, WOREC (Nepal), WARBE Development Foundation (Bangladesh), Migrants Coordinating Group (Philippines), etc.

Accountability/Monitoring - National:

- A national plan of action on Global Compact should be developed by 2019 and conduct its first review in 2020. This should also be presented at the UN High Level Dialogue, and should be in synch with existing commitments / reporting under 2030 Agenda for Sustainable Development,

Paris Agreement, including UPR and treaty body reporting

- Periodic reporting on the GCM should be done to the public and parliament, which include reporting of government, shadow reports of CSOs, and NHRIs, the UN treaty bodies, the UN High-level Political Forum on Sustainable Development (HLPF), Global Forum on Migration and Development (GFMD), and UN High-Level Dialogue (HLD)
- Review and monitoring mechanisms on the localizing of implementation should be ensured to hold actors accountable at a national level
- The GCM should be operationalized into national laws, policies, programs, processes, including reporting / monitoring mechanisms
- Develop TWG/Steering Group on the Protection and promotion of the rights of migrant workers e.g. Cambodia TWG
- An effective and rights-based country-level parliamentary (legislative) caucus on migration and development should be established
- Participation of civil society, independent trade unions and migrants (including migrant women) should be institutionalized in the implementation, monitoring and evaluation of laws, policies, and mechanisms of the Compact.
- Ensure migrant women, migrant women organizations and other excluded groups are included in the process and take leadership roles
- There should be a tripartite consultative body for migrant concerns
- Promote the role of local governments and local networks, especially in the implementation, monitoring of GC commitments.
- Develop integrated, updated, reliable information systems and statistical data on migration. Such updated national data and information on migration should be made accessible.
- There is a need for developing and enhancing robust systems for collecting, analyzing, sharing & using data on civil registration and vital statistics (CRVS) especially for hidden and marginalized migrant groups.
- Provide training on labour laws to migrant workers and their organizers
- Oman – The Ministry of Manpower aims to train government staff to deal more effectively with labour disputes and fast-tracking settlement disputes. The Ministry has created training programs for specialists in the field of labour disputes with the involvement of legal experts. The Ministry
- There should be capacity building on shadow reporting

Accountability/Monitoring - Bilateral/Sub-regional/Regional:

- Recognize & facilitate for registration of migrant groups, diaspora and trade unions by the destination country.
- There should be an Oversight Committee for BLAs/MLAs involving independent trade unions e.g. Philippines - Germany BLA
- Utilize national and regional trade policies to suspend trade benefits based on worker rights violations (includes migrants)
- Regional consultative processes should be used as platforms to monitor and review progress and sanction member states for failure/non-action to implement the GCM such as ASEAN, SAARC, Colombo Process and Abu Dhabi Dialogue.
- Migrant Forum in Asia has formalized the Asian Inter-Parliamentary Caucus on Labour Migration, committed to pursuing common activities that go beyond annual information exchanges, aimed to protect and promote the rights and welfare of migrant workers and members of their families

Accountability/Monitoring – Global:

- Global Level: Monitoring and review mechanisms at the global level such as ILO's Committee on Application of Standards, UPR process, and treaty bodies reporting system of the UN, ILO treaty review and reporting mechanisms, and other existing global mechanisms (Universal Periodic

Review (UPR), UN treaty bodies, the UN High-level Political Forum on Sustainable Development (HLPF), Global Forum on Migration and Development (GFMD), and UN High-Level Dialogue (HLD) and incorporate in their reporting the development of the GCM

- IOM to initiate a process of multi-stakeholder review of the GCM

THEME 6: RETURN, REPATRIATION, AND REINTEGRATION

OPERATIONALIZING POTENTIAL

- Governments should comply / implement commitments under the UN and ILO treaties on return and reintegration obligations.
- These should be integrated in national laws, policies, mechanisms and practice on return and reintegration

Migrant workers who are documented (contract) workers abroad, and decide to return home:

- They must be treated equally and covered by the same rules/procedures as other workers in terminating job contract, at the time of their choosing.
- Clear procedures must be in place for the safe, expeditious return of the MW to her/his home country, without prejudice to claiming benefits and entitlements due her/him.

Migrant workers who came in as documented, but ended up undocumented through no fault of their own (policies became more restrictive, administrative difficulties; employer tied visas):

- Guidelines or principles to register, regain documentation for migrants who through no fault of their own become undocumented should be facilitated by countries of destination in collaboration with Missions/embassies
- Integrate/institutionalize these in national laws, policies, mechanisms and practice.
- Bahrain – Bahrain's Labour Market Regulatory Authority (LMRA) established a Flexi Permit. This is a renewable 2 year permit which allows the eligible person to work and live in the Kingdom of Bahrain without an employer (Sponsor) where he can work in any job with any number of employers on full or part-time basis.

For migrant workers in distress:

- Countries of origin should provide appropriate health care as part of reintegration; including professionals specialized in treating Post Traumatic Stress Disorder (PTSD) to mitigate against the long term negative psychological consequences of abuse.
- Access to redress for migrant workers in distress should be made available in countries of origin and destination; integrate/ institutionalize these in national laws, policies, mechanisms and practices:
 - should include mechanisms to enable migrant workers to claim their benefits before they leave the country of destination. In cases where this is not possible there should be a mechanism in place to allow a migrant worker to claim her/his benefits in the country of origin in line with portability of benefits; this should also include use of ICT (e.g. teleconferencing) and/or proxy representation (e.g. through SPAs, representation by her/his trade union) to pursue claims, cases even when migrant already left the destination country. It should include mechanisms for temporary shelter, counselling, and other necessary conditions to pursue compensation and reparation claims in both countries of origin and destination.
- Migrants processing their claims/case and needing to stay in the destination country should be allowed to work or earn income, and/or provided decent allowance and means to financially support himself/herself.
- Mechanisms to access redress should recognize the role of trade unions and civil society organizations in facilitating access to redress
- Migrant workers in distress should not pay for passports and travel documents (e.g. exit passes) and governments of both countries of origin and destination should provide resources to support the processing of emergency documents through bilateral or multilateral agreements or MOUs.
- Migrants stuck in remand (i.e. no money to pay bail) should be provided assistance, including

free legal aid by States of origin and destination.

- Migrants who are charged with offenses should be treated equally before the law, including given full access to information on charges brought against him/her.
- Fines/penalties should not be imposed on migrants for offenses that is not their own fault (e.g. failure of employer to fulfill their legal obligations; confiscation of migrants' personal documents)

Reintegration of labour migrants (those who want to return for good/settle back to their home country after work abroad):

- Adopt bilateral agreements and/or multilateral standards/mechanisms on pathways for reintegration; this should specify primary obligations of country of origin, and support/facilitation role of destination countries; integrate/institutionalize these in national laws, policies, mechanisms and practices;
- Sending governments should have effective reintegration programs starting from pre-departure until actual return, which should include:
 - ensuring migrants are covered by social protection schemes before, during and after return; such social protection schemes should be portable in origin and destination countries; e.g. Philippines (in bilateral deals with Japan and other countries); Thailand;
 - ensuring that social protection is universal, and covers ALL migrants especially domestic workers, laborers and workers in elementary jobs.
 - national provident savings programs or similar asset-building mechanisms in the country of origin where employers in countries of destination contribute; national provident savings mechanisms should be accessible to migrants abroad and their families in the origin countries, should enable migrants/families to build their savings/assets in preparation for reintegration, e.g. National Provident Savings Program (NPSP) proposed by MFA and migrant groups in the Philippines
 - mechanisms or programs for sustainable livelihood in countries of origin as incentives to return and lessen pressure to migrate. Mechanism to facilitate economic reintegration/ economic/ livelihood options/support, skills training/retraining; job options;
 - social reintegration options/support
 - counseling/support mechanisms for victims of abuse;
- Governments should develop mechanisms to support migrant workers who are in debt bondage situations due to high recruitment fees. Migrant workers need to be protected from threat, abuse and coercion of financial institutions facilitating loans for recruitment fees.
- Governments should ensure participation of migrants, families in developing reintegration programs; tap the expertise, skills, capacities, experiences of migrant workers;
- Strengthen the role of local government in mentoring, assisting and enabling the reintegration of migrants, e.g. local 'migration and development' (M&D) ordinances, committees, programs in Philippines; Joint Migration & Development Initiative (JMDI) programs in the Philippines and other countries

Returns in line with the arrest, detention, and deportation of undocumented migrants:

- Individual countries or RCPs to come up with frameworks for regularization of undocumented migrants (e.g. good elements of the regularization mechanisms of Thailand and Bahrain)
- There should be guidelines or principles to register, regain documentation for migrants through no fault of their own become undocumented
- If there are no pathways for regularization, there should be national / multilateral standards for treatment of migrants including amnesty without sanctions, minimizing penalties without fines, no blacklisting. Origin and destination countries should provide logistical resources to enable return.
- An important distinction is to be made between migrants who are detained on criminal charges, and those who are held in administrative detention due to improper documentation. This is highlighted by the requirement in the MWC Article 17(3), that those detained for violations with respect to immigration status should be held separately from convicted persons or those pending

trial. This distinction is affirmed in 17(8), in which a migrant held on administrative grounds should not bear any costs associated with his/her detention.

Trafficked Migrants:

- A reflection period for victims of trafficking for those who want time to consider pursuing a criminal case against the trafficker.
- Access to visa and other services should not be contingent upon agreement to participate in the prosecution against traffickers.
- Specific mechanisms for the reintegration of trafficked persons need to be developed.

Mechanisms should consider specific needs of trafficked migrants.

Children (whose migrant parents are in deportation situations):

- Children should not be separated from their parents and or other family members.
- Access to appropriate education for returnee children should be provided

Repatriation of remains of migrants who died in the countries of destination:

- In cases of death of migrants, terminal cases, it is the direct responsibility of the employer or recruiter as prescribed by law; as a last resort, the country of origin should be responsible in ensuring repatriation of the migrant. Bilateral agreements should specify that origin and destination countries and other parties required by law should provide resources for repatriation of the migrant.
- The cause of death of migrant and full autopsy should be provided. Resources should be provided through bilateral / multilateral agreements and or MOUs.
- Employers should be responsible in case of deaths
- There should be protection against organ harvesting (on death cases)
- Expedite processing of transporting remains
- BLAs/MOUs between countries of origin and destination on dealing death cases
- Safeguard/protection against premature termination of visas- migrant workers whose visas were prematurely terminated should not be blacklisted or prohibited from re-entering the country.
- Philippines - The Philippine law provides for mandatory insurance coverage at no cost to migrant workers. The insurance coverage includes: compensation for migrant families no matter the circumstance of death, compassionate visit for families, repatriation, money claims, medical report, medical leave (6 months maximum) and other provisions.

- Operationalize, improve existing guidelines in dealing with mass mobility flows in situations of crisis – e.g. MICIC Principles and Guidelines; Red Cross/IFRC guidelines; relevant sections of SAARC and ASEAN declarations on cooperation in such situations.
- Alternatives to voluntary repatriation in emergency situations should be explored (e.g., safe zones, temporary evacuations to neighboring countries), and information should be provided to migrants of all options. For those migrants who wish to re-migrate following evacuation, support should be extended to help them identify regular and safe migration channels
- MICIC mechanisms should have mechanisms for implementation at the sub-regional level and should take into consideration the vulnerabilities of migrants in the Asia region.
- Mechanisms that address the situation of migrants in crisis situations should involve local government representatives in countries of origin. Missions and consulates should have capacity to respond to situations of crisis, and should have early response systems.
- In cases of returns in times of crisis, countries of origin should facilitate skills training, skills recognition and facilitate placement in local jobs
- Repeal policies that automatically deport women in particular migrant domestic workers who are pregnant.

Annex II:

Organizations Present in the Regional Consultation

- 1 Agency for Basic Community Development (ABC)
- 2 Amalgamated Union of Tenaga Nasional Berhad Employees (AUTNBE)
- 3 Asia Pacific Forum on Women, Law and Development (APWLD)
- 4 Asia Pacific Refugee Rights Network (APRRN)
- 5 Association of Cambodian Domestic Workers
- 6 Bangladeshi Ovhibashi Mohila Sramik Association (BOMSA)
- 7 Building and Wood Workers Federation of Myanmar
- 8 Building and Wood Workers International (BWI)
- 9 Building and Wood Workers Trade Union Federation of Cambodia (BWTUC)
- 10 Building and Woodworkers Industrial Council of Thailand (BWICT)
- 11 CARAM Asia
- 12 Caritas Thailand / COEER
- 13 Center for Migrant Advocacy (CMA)
- 14 Cross-Regional Center for Refugees and Migrants (CCRM)
- 15 Development Action for Women Network (DAWN)
- 16 Education International (EI)
- 17 Geutanyoe Foundation / Asia Pacific Refugee Rights Network (APRRN)
- 18 Global Alliance Against Traffic in Women (GAATW)
- 19 Global Union Federations
- 20 Human Rights and Development Foundation (HRDF)
- 21 Independent Democratic of Informal Economy Association (IDEA)
- 22 Red Cross Indonesia
- 23 Innovation for Change
- 24 International Domestic Workers Federation (IDWF)
- 25 International Federation of Red Cross and Red Crescent Societies (IFRC)
- 26 International Institute for Human Rights, Environment and Development (INHURED International)
- 27 International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) Asia/Pacific
- 28 Joint Committee with Migrants Korea (JCMK)
- 29 Kav Laoved
- 30 Kerala Kettida Nirmana Thozhilali Congress (KKNTC)
- 31 MAP Foundation
- 32 Mekong Migration Network (MMN)
- 33 Migrant Forum in Asia (MFA)
- 34 Migrant Worker Rights Network (MWRN)
- 35 Migrant Working Group Thailand
- 36 Migration Working Group Malaysia
- 37 Pravasi Nepali Coordination Committee (PNCC)
- 38 Public Services Labor Independent Confederation (PSLINK)
- 39 Save the Children
- 40 Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO)
- 41 Solidarity Center
- 42 South Asian Regional Trade Union Council (SARTUC)
- 43 Task Force On ASEAN Migrant Workers (TFAMW)
- 44 UNI Apro
- 45 Union Aid Abroad - APHEDA
- 46 WARBE Development Foundation (WARBE DF)
- 47 Women's Rehabilitation Centre (WOREC)