The *Global Compact for Safe, Regular and Orderly Migration* (GCM) briefer

Asia Pacific Forum on Women, Law and Development (APWLD)

Over 30 years of advocacy, activism and movement building to advance women's human rights and Development Justice in Asia and the Pacific.

apwld@apwld.org   www.apwld.org

What is Global Compact for Migration (GCM)?

In response to the ongoing migrant/refugee crisis and increased forced migration all over the world, the United Nations convened its first ever summit on migrants and refugees and unanimously adopted the New York Declaration on Refugees and Migrants in 2016. The New York Declaration paved the way for the adoption of the two new global compacts in December 2018: The Global Compact on Refugees (GCR) and the Global Compact on Safe, Regular and Orderly Migration (GCM).

The GCM is the first inter-governmentally negotiated agreement on a common and collaborative approach to international migration. It is not a legally binding document with priority on national sovereignty but elaborates commitment to international cooperation on migration.

There are 23 objectives and ten guiding principles listed in the agreement, which focus on migrant protection, improved living and working conditions, combating labour exploitation, human trafficking and discrimination, and expanding the options for regular migration. Each objective comprises a general commitment and a catalogue of actions that states can draw from to develop their national and international responses to migration.

What is in the GCM[1]?

The ten guiding principles of the GCM

- **People-centred:** promotes the well-being of migrants and places individuals at its core;
- **International cooperation:** requires international, regional and bilateral cooperation and dialogue with consensual nature and joint implementation;
- **National sovereignty:** States can determine their national migration policy. States may distinguish between regular and irregular migration status to determine their legislative and policy measures for the implementation of GCM;
- **Rule of law and due process:** The rule of law, due process and access to justice are fundamental to all aspects of migration governance;
- **Sustainable development:** rooted in the 2030 Agenda for Sustainable Development, and builds upon its recognition, that migration is a multidimensional reality of major relevance for the sustainable development of countries of origin, transit and destination;
- **Human rights:** is based on international human rights law and upholds the principles of non-regression and non-discrimination;
- **Gender-responsive:** ensures that the human rights of women, men, girls and boys are respected at all stages of migration;
- **Child-sensitive:** promotes existing international legal obligations in relation to the rights of the child, and upholds the principle of the best interests of the child at all times;
- **Whole-of-government approach:** to ensure horizontal and vertical policy coherence across all sectors and levels of government; and
- **Whole-of-society approach:** promotes broad multi-stakeholder partnerships to address migration in all its dimensions.

The 23 objectives of the GCM

1. Collect and utilise accurate and disaggregated data as a basis for evidence-based policies;
2. Minimise the adverse drivers and structural factors that compel people to leave their country of origin;
3. Provide accurate and timely information at all stages of migration;
4. Ensure that all migrants have proof of legal identity and adequate documentation;
5. Enhance availability and flexibility of pathways for regular migration;
6. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work;
7. Address and reduce vulnerabilities in migration;
8. Save lives and establish coordinated international efforts on missing migrants;
9. Strengthen the transnational response to smuggling of migrants;
10. Prevent, combat and eradicate trafficking in persons in the context of international migration;
11. Manage borders in an integrated, secure and coordinated manner;
12. Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral;
13. Use migration detention only as a measure of last resort and work towards alternatives;
14. Enhance consular protection, assistance and cooperation throughout the migration cycle;
15. Provide access to basic services for migrants;
16. Empower migrants and societies to realise full inclusion and social cohesion;
17. Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration;
18. Invest in skills development and facilitate mutual recognition of skills, qualifications and competences;
19. Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries;
20. Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants;
21. Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration;
22. Establish mechanisms for the portability of social security entitlements and earned Benefits; and
23. Strengthen international cooperation and global partnerships for safe, orderly and regular migration.

[1] Global Compact for Safe, Regular and Orderly Migration.
Retrieved from: https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf

10 Facts about the GCM

1

The GCM is the **first-ever globally and inter-governmentally negotiated agreement** on a common approach to guiding migration in a holistic manner. The GCM marks a significant addition to migration governance; in the past, any attempts to form a global compact on migration was considered politically impossible due to tensions among states' interests. This global agreement provides the basis for states to cooperate in tackling irregular migration, combating trafficking and people smuggling, managing borders and facilitating the repatriation of migrants. However, the obvious **unbalance of power between sending and receiving countries** can increase the challenges for state cooperation.

2

The **non-legal binding "soft law" approach** means that there is no enforcement or accountability mechanism if States fail to meet the standards. The GCM emphasises political cooperation rather than legal commitment as well as prioritises national sovereignty. It is criticised for lacking indicators, monitoring tools and a roadmap.

3

The GCM gives the **full respect of national sovereignty**. Due to the GCM's non-binding nature, States can pick and choose which commitments and suggested actions to implement and which to ignore. As a **state-led** process, the degree of implementation, how it is implemented, and which objectives and suggested actions are priorities strongly depend on the political will of the States.

4

The GCM allows states to **use immigration detention as a response to migration governance**. Although the GCM has emphasised immigration detention is only a measure of last resort, and it should be non-arbitrary, based on law, necessity with the shortest period of time, it neglected the fact that in many countries, detention has become a default legal and policy response to dealing with undocumented migration. Rather than putting an end of immigration detention in all its forms, the GCM justifies the state to detain migrants (both documented and undocumented migrants) even in case of no threat to national security.

5

The GCM **did not include the concept of Firewalls** to separate the immigration enforcement activities and the provision of essential services. The delink of fundamental rights and immigration enforcement is essential for migrants, especially women migrant workers to receive services, protection and support despite their irregular status.

6

The process of consultation and review is **dominated by governments, private sectors, UN agencies and big INGOs.** It is incredibly challenging for the migrant groups and grassroots women's movements to gain access to and eventually influence the complicated process of GCM monitoring and implementation. The primary platform for Member States to discuss the progress of the GCM implementation is International Migration Review Forum (IMRF) which shall take place every four years starting from 2022.

7

Management of migration approach rather than rights-based approach: The GCM has a strong focus on promoting development from a market-oriented perspective. For example, the promotion of skills certification and qualification recognition can be an excuse for recruitment agencies and companies to reap profits from migrants. The GCM focuses on market value rather than human rights, and women migrant workers are merely seen as profit-generating resources for both origin and destination counties. Disguised by a whole-of-society approach, the active promotion of private sectors in the GCM implementation process reinforces **market-based solutions** in global migration governance.

8

Although the guiding principle of the GCM includes the elements of gender equality, there were **still missed opportunities to achieve gender justice and women's human rights**. The GCM fails to include access to sexual and reproductive health-care services and rights for all migrant women. Also, the GCM remained silent about the special needs and rights of pregnant women and LGBTQI migrants.

9

GCM can be a tool to protect the rights of migrants: The 23 objectives of GCM, each with an associated commitment and set of policy options and best practices, address a wide range of migration issues. It also provides a tool for migrants and their organisations to make use of its platform to push the government to fulfil its commitment to advance migration policies.

Not only focusing on the policies related to migration, GCM also addresses adverse drivers and structural factors that compel people to leave their country of origin. Poverty, unemployment, conflicts, land grabbing and climate change are recognised as underlying structural causes pushing people to leave their home without any alternative choices. By addressing the structural factors of forced migration, migrants and their organisations can monitor their own governments' actions and hold them accountable to ensure decent livelihoods in their home countries.

10

The **missing fundamental rights**: While the New York Declaration represented a crucial moment of international solidarity and an opportunity to rethink global migration, the final text of the GCM falls short of human rights obligations. Not only without any effective enforcement mechanism, some very fundamental rights, including the rights to freedom of expression, citizenship for migrants and the principle of firewall were missed in the GCM. In addition, the GCM failed to address the challenges of internal migration, which is an equally pressing issue in the region, while millions of people displaced by political instability, poverty or climate challenge are often in subsistence conditions. It is also worth noting that the GCM does not make any reference to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

What can we do?

Actions matter:
Build a robust migrant movement across the globe

The existing platforms and official engagement opportunities are limited and often excluded from the participation of migrants; however, we can explore different channels and methods to amplify the voices of migrants through collective power, solidarity and creativity. We can take proactive actions to make the migrants' voices heard. Migrant women and groups can self-organise some of the following activities and opportunities at the local, regional and international levels to influence migration policy and governance that strengthens women's human rights and Development Justice. Strong capacity and mobilisation of civil society - especially of and led by migrants - will play an essential role in holding governments accountable and translating global commitments into local/national level policies and implementation.

1. National advocacy

As a state-led process, the potential of the Global Compact for Migration (GCM) lies in how and to what extent governments decide to meet their responsibilities and concretely adopt and implement migration policies based on human rights and fundamental freedoms of migrants. The voluntary nature of the agreement gives governments the power to choose to adopt which GCM objectives translate into the national policies, the level of implementation and resource allocation, as well as to make a 'choice' whether to participate in the review process. Some states seem to prioritise particular GCM objectives in the implementation, cherry-picking the objectives that are easy to implement rather than addressing the most pressing structural issues. For instance, a state prefers to support multicultural activities to facilitate mutual understanding and appreciation of migrants' culture (objectives 16) but not to minimise the adverse drivers of migration such as poverty, climate change, political instability, which compel people to leave their country (objective 2). It makes the participation of the migrants and migrants' groups essential to ensure the government's priorities on the GCM objectives respond to the pressing and structural issues of migration in their country. Migrants' groups can use the GCM objectives and framework to push the government to reform the migration policy.

2. Monitor and Influence the Voluntary National Report (VNR)

Voluntary National Review (VNR) is a voluntary based, official evaluation document submitted by the Member States to reflect the status of implementation of the GCM in their countries. Before the submission of the VNR from the state, migrant groups can pressurise the government to hold inclusive, transparent, participatory and effective national consultations (e.g. public meetings, community discussion, parliamentary debate) during their preparation of the VNR. After the submission, migrant groups and civil societies should monitor the VNR if the content reflects the realities, what promises the government gives and utilise the submission to hold governments accountable. This can be useful information to support future advocacy work.

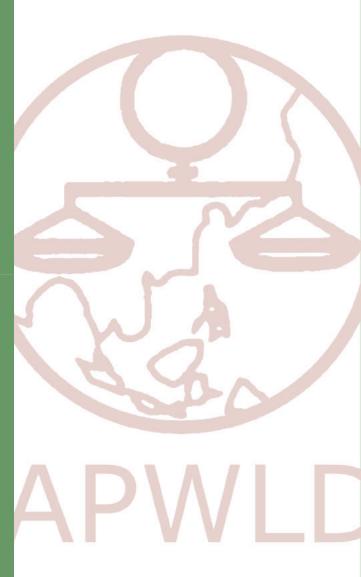## 3. Create our own Migrants' Review and Submit Alternative Reports

There is a tendency that member states highlight the progress and best practices in meeting the human rights obligations and downplay the violations and challenges in any review processes. For the GCM, migrant groups can produce an alternative report based on the realities and struggles of migrants on the ground - to realistically portray the human rights situation of migrants. The alternative reports can serve as a critique of the governments' reports, highlighting issues that may have been neglected or misrepresented in the government VNR reports and offer policy recommendations based on the aspirations of migrants and their communities.

4. Voice out and speak up in the official review

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5. Create our own Migrants' Democratic Space

In parallel to the formal space and process, migrants and migrant groups can create their own alternative democratic space. To counter the constraint of the official processes, the Migrants' alternative space can be a truly open, meaningful, inclusive, participatory and grassroots-led process. Migrant women and groups can share their lived experiences, struggles and expectations at this platform and strengthen solidarity among diverse migrant communities.

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