

**GFMD Priority topic**  
**Theme 5: Discussing approaches to address irregular migration:  
what works? What doesn't?**  
**Business position**

General comments:

- Of the world's migrant population of 272 million, an unknown number are irregular migrants – those who have entered or remain in a country without fulfilling immigration requirements. There are very limited data on this population, but one expert estimates their number to be roughly 50 million – far exceeding the refugee population of 21 million<sup>1</sup>. The countries with the largest numbers of unauthorized migrants include the United States (11 million), India (at least 10 million), the Russian Federation (4 million), Malaysia (1 million) and the United Kingdom (1 million).
- The high level of migrant participation in local workforces generally suggests that irregular migrant participation in the labour force is substantial. The drivers of migration are well known: to avoid risk and access opportunity. The desire for a better life through enhanced economic opportunities continues to be a strong incentive, with likelihood of migration increasing with the potential gain to be achieved. Fleeing or seeking refuge from potential harm is arguably growing as the motivation for migration and frequently is so substantial that the migrant is willing to embark on a dangerous journey. The incidence of political repression, civil strife, humanitarian disasters, climate change, and rampant crime seems to be rising.
- The negative consequences are equally well known. Irregular migrants are vulnerable to smuggling, human trafficking and exploitation. There is also a political cost. Irregular migration is at the very heart of the negative public perception of migration generally.
- Transformation of the workplace is conducive to economic migrants working without proper status since the bias toward regular payroll jobs is shifting to more occasional, intermittent and project-oriented work. Any discussion of the problem of irregular migration must begin with a stark truth: Eliminating the drivers of irregular migration is a long-range challenge of enormous size and complexity; perhaps it requires worldwide parity in economic opportunity and good government. Realistically, gross disparities in economic opportunity and good governance will persist. Developed economies –which receive the largest share of irregular migrants –must craft pragmatic solutions to manage the issue.
- Traditional approaches typically involve increased border controls and interior enforcement, to block the inflow of migrants, remove them and de-incentivize employers from hiring them. There have been significant downsides to these approaches, among them, physical endangerment of migrants and a brisk market in counterfeit identity and work authorization documents. Furthermore, countries with extensive sea and land

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<sup>1</sup> Joseph Chamie, "Understanding Unauthorized Migration," IPS-Inter Press Service, November 15, 2016, available at <http://www.ipsnews.net/2016/11/understanding-unauthorized-migration>

access are challenged to affect an adequate system; the European Union and the United States are examples.

- Though border security and human rights protections are essential elements of any program to control irregular migration, they are incomplete on their own. Missing are mechanisms to place economic migrants within the legal migration system. The huge reservoir of economic migrants must be addressed not simply from a border security and human rights perspective, but also from the perspective of the labour markets of destination countries. This includes assessing unmet labour needs as well as gauging the impact of irregular migrants on the domestic labour market. Most importantly, widespread employment of irregular workers in an industry suggests that the need for that particular labour is unmet by domestic workers.
- From the business perspective, we see three avenues, which will contribute to preventing irregular migration:
  1. Strengthening legal pathways for employment
  2. Sound frameworks for responsible recruitment
  3. Transitioning from informal to formal economies

#### 1. Strengthening legal pathways for employment

- The current crisis will change the migration landscape drastically, but it will not close the skills gap that every region of the world is facing. An efficient infrastructure for cross border skills mobility remains crucial; even more so for the global economy to recover.
- **Legal pathways for workforce mobility will need to respond to today's and to tomorrow's employment's needs.** This requires facilitating the movement of people to a greater extent than in the past. In view of the current socio-economic crisis, legal pathways should be strengthened to allow employment of essential workers in occupations where there are chronic shortages of local workers. Too often, employers cannot have access to the workers they need through regular channels, because they are too cumbersome, narrow or because of time constraint.
- The reality is that most legal pathways were built for a now-obsolete economic model based upon fixed work locations and contracts for structured employment. Migration law, policy and administration have not kept pace with the workplace changes. In fact, local labour market policy increasingly conflicts with labour needs at both national and employer-specific levels.
- **Availability of relevant migration pathways** remains a significant area to address. Migration systems must address the growing need for semi-skilled labour in shortage occupations and for seasonal needs. Systems often inadequately consider these labour needs because there is a perception that local workers are available. In reality, though, countries often fill low-skill labour needs with foreign workers who lack proper status; this is one of the key drivers of irregular migration. The absence of sound low-skill mechanisms has serious consequences. Permanent migration pathways for the lower-skilled can also help address skills gaps and demographic challenges.

- In catering to the needs of the private sector through adequate migration pathways, governments essentially need to understand the inherent link between migration and development. Often these requirements align to an underlying need that can facilitate growth, skills transfer or fill skills gaps.
- Although the vision on mobility set out by the Regional Integration systems such as ECOWAS or MERCOSUR covers freedom of movement and the right to work, current challenges and uncertainties remain with implementation. Therefore, where regional frameworks can continue to work towards implementing quick wins such as freedom of movement for visit, work or residence purposes, it has the potential to realise benefits of migration that can be replicated more widely.
- Furthermore, there is also great potential in terms of harmonisation of skills recognition frameworks within the same agreement which could present a significant opportunity to make real and concrete progress towards developing commonly accepted skills frameworks across regions, which will enable greater mobility of such skills as a natural consequence. Well crafted skills recognition system may facilitate regular migration and reduce informal and irregular work. Better skills matching, skills identification and assessment would also enhance greater private sector driven regular migration.
- At the same time, solutions to support the domestic labour market are needed. Skills training, local recruitment initiatives and similar programs ensure that local workers are not disadvantaged by legal channels for economic migrants.
- As policymakers will reflect on revised migration systems, labour market needs and modern business practices will have to be considered. This will mean increased interaction with Labour and Employment ministries, as well as with employers themselves, because employers are best positioned to determine the skills and business models necessary to effectively achieve their business objectives. Migration for employment is demand-driven and requires business input to be successful. Such success would benefit business, workers and society alike through greater economic development and efficient use of resources.
- Objective 5 of the Global Compact for Migration (GCM) refers to developing and building on national and regional practices for admission. Enhancing availability and flexibility of pathways for regular migration with a view to employment will ensure that employers can hire the workforce through regular channels.

## 2. Sound frameworks for responsible recruitment

- Many migrant workers fall through the cracks of rogue intermediaries, due to a gap in efficient policies and frameworks for responsible recruitment. When regulated appropriately, private employment and recruitment services improve labour-market functioning by matching jobseekers to a decent job, inside and across borders. Today many countries have inadequate regulatory frameworks for these services, and/or simply do not enforce them. This allows for illegal, unethical and/or rogue players to deceive

and trap (overseas) jobseekers and workers into indecent jobs, debt bondage and dangerous working conditions.

- Appropriate and effective national regulation is required to balance the interest of (international) jobseekers, workers and businesses on private labour-market allocation.
- There is a wide range of international instruments and initiatives which aim at reducing unethical recruitment. Their aspiration is to ensure that the rights of workers are not violated through the recruitment process and that workers will not be exploited in the workplace. Principles include no recruitment fees to be charged to workers, the right of workers to be in possession of identity documents at all times, and the requirement that contracts cannot be confiscated, destroyed or retained, wages to be paid in a timely fashion, access by workers to information and grievance and dispute resolution mechanisms at all times.
- But despite the substantive convergence of these initiatives, as well as the widespread consensus around the principles they espouse, abuses persist in many parts of the world. Low-and medium-skilled migrants seeking job opportunities are most vulnerable in this regard and require special attention and protection.
- Addressing these human rights violations is a shared task. Governments have the primary duty to respect, protect and fulfil human rights, while ensuring social protection to their populations. Businesses also have a responsibility to respect human rights and undertake due diligence to identify and address adverse situations in which they may be involved. This is a business imperative. For responsible enterprises, the importance of compliance with existing laws and regulations goes beyond avoidance of monetary fines and other legal sanctions. It speaks to the protection of brands and corporate reputation, the management and control of risk, and the preservation of a level playing field and fair competition.
- The regulatory framework should be conducive to an ethical recruitment business case that serves as an alternative to rogue providers for both domestic and cross-border jobseekers. Such a business case depends on the cost of deliberately breaking the law. At national level, dialogue should take place to put the right regulations in place targeted at the recruitment industry. The global business community is prepared to support the work of governments in implementing and enforcing the regulatory frameworks needed to fight rogue providers.

### 3. Transitioning from informal to formal economies

- The Covid-19 crisis has shed light on a serious concern to businesses: informality, in particular for employers in Africa and South America. Most of the migrant workers who are now in difficult situations were working in the informal market, with no protection or social safety net.
- Business and governments have to work together to counter informality, which generates huge losses for the economy: the main objectives should be to identify the

root causes of the existence of the informal economy and the barriers to formalization and to put in place policies to assist informal entrepreneurs to more easily formalize.

### Conclusion

- Failure to have well-functioning migration systems hurts each of the stakeholders; business, workers and society. It is in every government's interest to address barriers to well-functioning migration through greater availability of more timely, more transparent, and more efficient migration systems. This would include greater use of technology by national governments.
- Failure can have devastating negative consequences for all stakeholders:
  - When migration related barriers prevent business from filling its skills needs, economic development suffers.
  - Migration barriers injure both destination and countries of origin alike. Destination countries because such barriers can cause greater irregular migration by those who choose to enter irregularly, with significant economic and political costs to the receiving country. Countries of origin suffer because those who stay may join informal economies with negative consequences for labor markets and huge costs to society in lost taxes and heightened enforcement.
  - The consequence for workers who could fulfill and grow their capacities through skills development is enormous.
- Given these costs and potentially lost benefits, there is a strong business case to address irregular migration through reforming and enhancing national and regional migration systems.

#### **Example of successful partnership: Talent Beyond Boundaries (TBB)**

TBB focuses on labour mobility as a complementary solution to humanitarian resettlement. TBB match skilled refugees with companies in need of their skills. TBB's work with businesses in Canada and Australia in concert with national and provincial migration authorities has been able to reduce barriers and encourage regular migration among a population that had a significantly history of irregular migration, particularly to Europe. Employers report that they face migration barriers when trying to hire the skills they need. Working with civil society and government partners Employers were able to successfully address some of these barriers.