

2nd Draft Background paper RT 3.1.

Empowering migrants, their households and communities for improved protection of rights and social development outcomes

As of 2013-11-13

Expected outcome

The expected outcome of this Roundtable would be a list of possible measures to be taken by governments of both countries of origin and residence and through public-private partnerships in order to reduce vulnerabilities of migrants and their families and minimize the social cost of migration

Introduction, including definition of empowerment

This Roundtable focuses on model frameworks for ensuring rights and measures that empower migrants in order to minimize the human and social costs and improve access to safe, legal and protected migration opportunities. With empowerment in mind, we look at a) the structural and legal frameworks required to ensure that policies and practises are mindful of migrants' human rights and enable them to access their rights; b) we consider how the social wellbeing of migrants can be enhanced through migrants' access to information and equitable policy initiatives; and c) we explore how to minimize the social cost of labour migration taking into account migrants' needs for protection and empowerment irrespective of skills level. . Since many states today face similar challenges as countries of origin and destination, the exchange of experiences in identifying barriers and overcoming obstacles, is particularly instructive. By focusing on the quality of migration and ways to empower migrants it is possible to identify good practices in providing safe and well-protected conditions for mobility and policies that also can facilitate integration for migrants who choose to settle permanently in destination countries and also to travel back and forth to retain close links with families and home countries. **The aim is to encourage an exchange of information** between states using case studies that can serve to illustrate how states identify barriers and the steps they take to overcome them. The objective is to understand how the lessons learned can be shared with other countries experiencing similar challenges.

The **concept of empowerment** requires clarification to ensure a common understanding of the goals and objectives of this roundtable, Empowerment within this context is founded on a human rights-based approach to migration whereby individuals **are able to understand and claim their rights**. We also understand it to mean that migrants should be empowered to take action while respecting the rules and values of the host society. They should be able to organize, participate and advocate for policy changes and also claim redress. **Both barriers to, and means of, empowerment should be**

taken into account, meaning that obstacles that prevent migrants from accessing their rights should be identified so that conditions that support empowerment –legislative and structural, as well as opportunities to access rights and equity are addressed. This definition encompasses prospective and actual migrants, families left behind, as well as permanent residents and members of the diaspora in host countries.

Different approaches may be needed in the context of South-South and South-North migration respectively. There are differences in access to migrant empowerment depending on whether migrants hold permanent or temporary legal status in the country of destination. Where migrants have an irregular status, they may be subject to exclusion and marginalization which may also limit their capacity to contribute to positively social development outcomes. There are examples where both mothers and fathers are forced to spend years abroad to pay off their recruitment costs before they are able to reunite with their children. While the material standards may improve for children left behind through economic remittances, the emotional and social costs may have unintended consequences such as family break-ups and loss of social cohesion. Consequently, more attention is needed on migrant households and family members left behind in order to reduce the **social costs of migration** (separation, school drop outs, child abuse or loss of skills for local communities).

The rights and empowerment of migrants as development actors in both host and source countries is of growing importance for several reasons. Migrants contribute through their labour and capacity, and also through knowledge transfer and social interaction. **Given the rise of xenophobia it is increasingly important for states to enable and facilitate for migrants to gain access to the labour market, share their knowledge and be acknowledged for their contribution to host and home cultures.** A positive integration in host cultures paves the way for success at many levels. While States have begun to acknowledge the development impact of their diasporas through the billions of dollars remitted, few have developed policies that embrace and engage their diaspora populations and capitalise on their contribution to development. This includes policies and funding mechanisms in countries of origin and destination that support **migrants' awareness of their importance to development** in countries of origin and residence, and funding for civil society actors (who may/may not be migrants) to engage on policies linking migration and development. We ask what rights, entitlements and opportunities do diaspora groups have in various host countries that contribute to positive development outcomes in countries of origin? What examples can states provide that illustrate how their policies enable migrants to access employment opportunities, start/develop businesses and also open trade between their host country and country of origin? What examples can be shared among states that acknowledge the diasporas as transnational development actors?

At the same time, migrants' **empowerment should be addressed along a continuum of mobility**, beginning with information available to potential migrants in countries of origin about their options for themselves, with or without family members. How do states coordinate efforts with civil society actors and the business sector to ensure that migrants have access to the information they need to protect themselves and enhance opportunities as labour migrants, students or to unite with family members abroad? What examples can states show where recruitment agencies refer under-qualified migrants directly to vocational or tertiary training to enhance their skills in order to qualify for better, legal (therefore safer) migration opportunities? How can states provide support to family members left behind?

Links to other GFMD Roundtables

The topic of empowerment is implicit in all the roundtables, but **in RT3.1 is there an opportunity to explore tools that enhance, or systems that block, empowerment of migrants.** Migrants' access to information, their ability to advocate for themselves, and their opportunity to act will enhance their contribution to development, which is why legal, institutional and other structures that may impact the empowerment of a migrant are debated in RT 3.1. By focusing on different dimensions of empowerment, this roundtable will identify methods and practices that can be fed into the policy discussions addressed in other roundtable discussions. As recruitment is a focus of RT2.1 on *Enhancing the development impacts of labour migration and circular mobility through more systematic labour market and skills matching*, there will be a degree of overlap with RT 3.1.; however, **RT3.1 does not focus on skills matching or labour market participation**, but on the social dimension of migration (including, but not limited to labour market participation), taking into account the gender, age, and skills of the person concerned. Similarly RT 3.1. looks broadly at how empowerment contributes to migrants' agency as individuals, family members and contributing members of society, while in RT 3.2, the discussion focuses on how migrants, as development actors, can contribute to positive development outcomes specifically in the areas of health and education in countries of origin.

Guiding Questions:

a) What structural and legal frameworks are required to ensure that policies and practises are mindful of migrants' human rights and enable them to access their right? What are the barriers towards migrants being able to access their rights?

What is the legal framework for the protection of migrants' human rights (both at International and national levels)? Have states ratified international conventions on these issues and what are the best practices on policies and practices aimed at implementing a national legal framework on the protection of human rights? This is particularly important in the context of south-south migration and developing economies.

What are the gaps between the legal framework and practice (for policies and measures in place) for the protection of migrants rights? What migration policies, corresponding to the legal framework and directives, have been or should be adopted to ensure that migrants can enjoy the rights they are entitled to (with a special focus on education and health)? Regular migrants should be dealt with separately from irregular migrants since they are not entitled to the same rights. What are the best practices/measures addressing barriers to accessing (xenophobia, racism, lack of knowledge), and what tools can be used to promote full access (information campaigns, legal consultation, one stop shops, campaigns combating racism and xenophobia etc.).

National legislation is the foundation for protection of migrants' rights and their ability to advocate for themselves. What legal frameworks are in place to ensure access to e.g.: legal aid, social security schemes, portability of pension rights and (micro-) insurance etc. What has been done to reduce upfront costs of migration (recruitment fees, access to credits and loans? How have states developed opportunities for legal migration while continuing to develop opportunities at home to ensure that migration is an expression of empowerment, not necessity? A migrant's age as well as gender will impact on his or her opportunities to benefit from migration, be it temporary or permanent. **Very young or unaccompanied children will have special needs**, as do elderly and disabled migrants. Both

categories have health care and education needs as well as protection needs that differ from the broader population. States party to the Universal Declaration of Human Rights and other international instruments have the responsibility to safeguard the fundamental human rights of migrants regardless of status. Migrants and States alike benefit from policies that facilitate access to a regular migration status in any given country. Is the road to citizenship open to all? How do municipal authorities interpret national legislation to address the needs of migrant populations living and working under their jurisdiction? Are there differences? Is legal aid available to migrants, and is it dependent on migration status?

Are policies supportive of migrants' empowerment efforts or do they create barriers to social or economic inclusion? Are there examples where countries legislate to promote a multi-stakeholder supportive network to protect and empower migrants, and how is that differentiated based on a migrant's legal status? For example, are migrants in an irregular situation able to report workplace abuses to legal associations? Some states look to future demographic trends and have created an open labour migration policy with a view to attract both population and talent. Others prefer more regulated skills-matching programs with a view to permanent migration. What benefits do States offer migrants at any given point in the journey? What policies have been successful for countries and for migrants themselves?

Not all persons are labour migrants. Some migrate to reunite with family members, others through marriage. Do migrant children have access to primary education regardless of their migration status? Are they able to graduate with a valid leaving certificate even if they are in an irregular status? How will their qualifications be recognized if they are without status? Persons with a regular migration status, moving for educational purposes have different needs and opportunities as a result of their studies. Do states offer favourable terms of stay, such as extension of visas and work permits for students wishing to seek employment upon graduation? What options have been most successful? How do countries in the south address integration of migrant family members? What assumptions lie behind existing policies, and what practises have been successful?

What policies do source States have that directly impact the individual and his/her family? **Are there positive examples available that States and other stakeholders can share where the situation of families left behind has improved as a result of policy interventions at a national or municipal level?** How can countries address the issue of multiple and often contradictory identities of migrants which may impede their full integration in host societies.

Families and children left behind as a result of migration have been the focus of recent research. Studies conducted by UNICEF in different parts of the world highlight both positive and negative outcomes. Children have increased access to schooling and healthcare, but the psycho-social situation of these children may not be considered. **What can states and families themselves do to minimize the downsides of migration?** What examples and best practises exist aimed at building the resilience of families and communities where breadwinners are migrants? **Are there examples globally where communities of high out-migration have developed coping mechanisms that could be implemented elsewhere?** How are the needs addressed of migrant families living in host countries and facing disadvantages on cultural or economic grounds?

Are there barriers to empowerment of migrants and diaspora in host countries that limit their ability to participate in the development of countries of origin? For example, how do countries of origin and

destination regulate money transfers and do the regulations support or impede development in countries of origin? **How is the gender dimension reflected** in how remittances are received by families in countries of origin? Are women able to access bank accounts? Do they face higher costs? Do women have an equal say in how the money is spent? What programs are available to enhance life skills and financial skills training for children and families left behind? What role does the national/municipal government have in providing support to this target group? What policies do national governments have that empower and facilitate families of migrants to mitigate the downsides of migration? How can countries balance their need of care giving services by migrants (generally female) without contributing to social disintegration in source countries? What are successful examples of how states have intervened to provide support, training and guidance to family members or guardians who are primary caretakers in the absence of their labour migrant parents?

b) How can the social wellbeing of migrants be enhanced through migrants' access to information and equitable policy initiatives?

What do we mean by migrants and their households as well as communities empowerment?

- a. migrants empowerment
- b. households empowerment (women)
- c. communities empowerment

The concept of empowerment can be understood in the context of migrant's social wellbeing, comprising the enhancement of human and social capital of migrants and means to avoid identity conflicts. Communities' empowerment is closely linked with migrants' associative life, networking, and participation in public life. Empowerment of households is closely linked to the transnational movements of migrants across borders, the feminization of migration and developmental activities in source countries as well as with job opportunities and skills development. What have been the best practices / measures to enhance intercultural mediation through e.g.:

- Information campaigns
- Legal and administrative support for migrants and their associations
- Targeted measures for migrant women and more specifically domestic workers and care givers.

Highly skilled migrants will generally receive information and assistance from their employer to adapt to a host country. Information regarding access to health, social services, banking information, education etc. is generally made available to this group. **Mid and low skilled workers require greater advocacy from their governments** and civil society in countries of origin. **They will require an element of outreach and direct assistance to access the knowledge they need in addition to pre-departure measures** (language courses and information on practical issues). What policies and structures do source and hosts States have to facilitate outreach? Countries of origin and destination are both faced with the consequences of human trafficking and different forms of labour exploitation. Is information about prevention and awareness of the risks and costs of irregular migration, trafficking, smuggling and employer abuse readily available? **How is that information communicated to migrants and their families?** Are there examples of private sector outreach and the creation of partnerships with other stakeholders to address communication challenges and opportunities with migrants as a specific target group? What examples are available to illustrate public outreach in support of migrants' wellbeing and countering xenophobia?

In countries of residence, elderly migrants may not have sufficient language skills to communicate their needs, and younger migrants may not be able to articulate them. Having programs in place to sensitize care and service providers to the requirements of vulnerable migrant groups will facilitate the ability of this group to advocate for themselves. What examples exist in the global North and South to illustrate different approaches that enhance this aspect of empowerment? How does South-South migration impact the empowerment of particularly vulnerable migrants such as children, youth and women? **What examples do middle income countries have when dealing with these issues as they transition from developing to industrialized status and from source to receiving states?** Lower skilled workers without a relevant education background may also require financial literacy training as well as information about sexual and reproductive health concerns. Countries can benefit from the experiences of others who have adapted strategies to deal with different forms of migration and returning migrants.

In countries of destination, how is information made available to new arrivals with regard to rights and responsibilities? Do states/businesses offer pre-departure and/or information upon arrival about access to health care, emergency services and is that information available in a variety of languages? What measures do states have in place to ensure access to health care for all children and how are undocumented migrants' care needs addressed in the context of public health risks? What bilateral agreements exist between states to enhance access to information and protection for migrants and their families? A migrant may transition to a more permanent status in his or her host country; what means does an individual migrant have to access the information, contacts and support needed to enhance their opportunities and contribution as a migrant? Is the migrant limited by language, gender or cultural codes? What policies are in place to link a migrant with support networks in countries of destination and origin? What information is available to diaspora members wishing to contribute actively to development in countries of origin? How are states empowering migrant associations to facilitate engagement in countries of origin? What is the role of one-stop-shops in migrant, legal and administrative support?

c) How can states minimize the social cost of labour migration taking into account migrants' needs for protection and empowerment irrespective of age, gender, skills/income level or migrant status?

What is the nexus between migrants' empowerment and development for both source and receiving countries? What is the development impact of migrants' whose rights are fully protected on the social development of both source and receiving countries? Specifically, how can migrants' empowerment contribute to the **social cohesion** of receiving countries as well as to the **social development** of source countries through the transfer of social capital they acquire in host countries, the circulation of mentalities, ideas and (social remittances) together with financial remittances. What are best practices addressing circular migration schemes, access to the citizenship (under certain conditions) and exchange of expertise?

The situation for migrants will differ based on gender, age, disability and citizenship; it differs based on level of education and skills. A successful migration and return is formed in the country of origin and is carved out in the relationship between the government, private sector and civil society stakeholders, with input from unions and migrant/diaspora organizations themselves. While highly skilled migrants will not face the same barriers to mobility and labour market participation as low-skilled migrants, empowerment of this highly skilled group can be also enhanced by promoting options for portability of pensions and social protection. The European Union's work on the free

movement of workers constitutes a good example of how countries, through a framework of regional cooperation, have worked to enhance options for its citizens. Similar examples highlighting the social dimension of labour migration may be identified and shared with RT2.1. to enhance the labour matching programs addressed there.

The competition for certain talent at the top will encourage companies to offer increasingly beneficial packages to these labour migrants. The situation is reversed for the low-skilled migrants and to a certain extent, those with mid-level skills. **Here is where protection measures incorporated in a recruitment system can have the most impact.** Low skilled workers risk debt bondage as a result of high fees paid to recruiters; unethical recruitment practises can lead to rights and labour violations; lack of transparency around the recruitment processes unfairly stigmatizes recruitment agencies that do abide by human rights norms and can damage corporate brands linked to sectors where abuses occur. Is there a need for an elaboration of an ethical recruitment system taking into account the vulnerability of certain groups (health and care workers, construction workers etc.)? What examples are available globally that encourage a multi-stakeholder approach to minimize social costs and potential risks of those migrant workers most vulnerable to trafficking and labour exploitation? How can trade unions nationally and globally work more effectively to reduce the social costs of migration, without undermining the real opportunities that exist for a migrant to enhance their social and economic development outcomes? What is the role and impact of information campaigns aimed at enhancing the empowerment of labour migrants and ideally, what stakeholders are involved? How can a multi stake holder approach prevent brain waste and take advantage of the social and human capital of migrants?

Migration creates opportunity but requires that protection needs are met. Finding ways to reduce the burden of the recruitment costs for low-skilled workers would contribute positively to the economic situation of the migrant and his/her family and enable them to reunite earlier. What successful measures have states put in place towards that end? What are the gendered costs of recruitment, and how can youths and young adults be protected from exploitation? What gaps exist between legislation intended to protect prospective migrants from exploitation, and how the policies are implemented?

In the context of empowerment, an opportunity for regular labour migration should not be denied based on concerns about brain drain in any particular sector, especially if employment opportunities are lacking in the country of origin. At the same time, what measures address the risk of brain drain in vital sectors within source countries? How can countries actively pursue bilateral labour agreements as part of a broader economic development strategy?

A gender biased approach to migration may impose unreasonable barriers for e.g. female health workers seeking to fulfil their social and economic goals, and lead to social stigma if this group is seen to be betraying those left behind increasing their social opportunity costs. Similarly, by allowing gender, rather than skills, to determine the selection process for a labour migration program, either sex may be the subject of discrimination and disempowerment. What has been the impact of the feminization of migration in source countries? If migration of workers within a specific profession constitutes a development risk, then that should be considered in a country's overall social and economic development strategy. Examples of how countries work to counter this can be found in the Philippines and also in the Pacific Islands where training of health workers for overseas employment

is a part of their national development strategy. WHO has developed a Global Code of Practice on the International Recruitment of Health Personnel aimed at balancing the needs and interests of the migrant, and that of the countries of origin and destination (thus avoiding brain-drain in countries of origin).

Building on the work of other roundtables, how do state actors collaborate with the private sector to ensure that migrants are protected throughout their stay in the host country? Are their labour rights protected? Do they share equal pay and other entitlements with the host population for the same work? Are there measures in place by corporations to protect migrants in crisis (as a result of man-made or natural disasters)? **What examples exist where states and business act together to improve conditions for migrants, improve their access to the marketplace and counter xenophobia?** How are states situating migration within the discourse on population dynamics? How does the use of positive rhetoric impact public perceptions of migrants?

Annex

This Annex will (when complete) contain descriptions and references to examples of relevant frameworks, policies, programmes, projects and other experiences in relation to the issues raised in the policy part of the Background paper. In this, its first iteration, it serves to illustrate the type of information to be included. This second part of the Background paper aims to form the basis of an evolving catalogue of policies and practices with a view to be stored and displayed on the GFMD Pfp website in a Policy and Practice Database. As we receive more examples, the current guiding framework will be updated or removed as necessary.

Main issue areas

a) Structural and legal frameworks to enhance empowerment and increase protection

Indicatively...

Countries of destination:

- National legal and institutional frameworks, legislation and policies, coordination mechanisms: barriers to and ways to protect migrants and promote empowerment.
- Policy coherence and (bilateral) cooperation among relevant ministries and authorities, trust-building and sharing of lessons learnt; engagement with diaspora organizations; identify ways to increase empowerment.
- Gender dimensions; special needs for vulnerable groups (low skilled migrants, women and children).

Countries of origin:

- Legal mechanisms and/or policies to protect families left behind and reduce vulnerabilities
- Efforts to promote legal migration opportunities; bilateral agreements, consultations, engagement with diaspora groups and migrant associations
- Gender dimension regarding vulnerabilities and opportunities for migration and support upon return.

b) Enhancing social wellbeing of migrants through access to information and equity

Indicatively...

Countries of destination:

- Predeparture/arrival information; resources set aside to train authorities on their obligations to protect rights of migrants; special measures in place for mid & low skilled migrants.
- Government providing accessible information on opportunities to transition to permanent status, and citizenship (as applicable).
- Engaging private sector support for diversity; support to vulnerable groups; sensitizing care providers to needs of migrants; raising public awareness about exploitation and other forms of abuse.

Countries of origin:

- Predeparture information; resources set aside to address special needs of migrant families left behind, particularly in areas with large outflux; assistance to information for returning migrants;
- Actively campaigning against stigma of migrant workers and other forms of xenophobia.

c) *Minimizing the social cost of labour migration for migrants and family members*

Indicatively...

Countries of destination

- What are positive examples of how governments work with partners in civil society and/or business to combat xenophobia?
- Are migrants able to access social services and/or pensions? What is the degree of profitability?
- What are examples of migrant worker protection in recruitment systems? what are positive examples of ethical recruitment systems, what studies have been done on the impact of lowering the opportunity costs of migrant for male and female migrants, plus families left behind?
- What examples are available on bilateral labour agreements that take into consideration the wellbeing of family members left behind? What measures are in place to support family reunification?

Countries of origin:

- How have source countries worked to counter stigma as a result of migration for certain vulnerable groups (domestic workers, care workers etc.)
- What examples exist that promote ethical recruitment systems?
- The outflow of certain key professions (health, education) can negatively impact development in the source country, how have states successfully addressed this risk?