

Report on GFMD 2020 regional consultations on “Discussing approaches to prevent irregular migration: what works? What doesn’t?”

Co-convened with the Regional Conference on Migration (Puebla Process) June 4, June 11 and July 3 and with the Bali Process on June 15, June 29 and July 1.

Approaches to prevent irregular migration was discussed at two regional consultations organized by the UAE Chair of the 2020 GFMC, in collaboration with the Bali Process and the Puebla Process. The consultations took the form of an opening plenary session at which the three topics chosen for discussion by the regional partner were introduced, followed by simultaneous breakout sessions at which each topic was discussed in depth, and finishing with a closing plenary that brought forward some of the highlights of the preceding sessions. Representatives of governments, civil society, the private sector and local authorities took part in the consultation. This report summarizes the main points that were made in the discussion of approaches to prevent irregular migration. These points fall into five major “baskets.”

1. Strengthen legal pathways.

A recurrent theme throughout the consultation was the importance of expanding legal pathways for migration and making them more flexible and better suited to contemporary patterns of mobility. Speakers from every sector put forward access to legal migration as the most effective way to prevent irregular migration; this was the single most emphatic and frequent point made throughout the consultation. Legal pathways include admission for work, education, family unification and humanitarian purposes (including refugee resettlement).

The quality of regular channels also needs to be improved; they are often so expensive, complex or slow that people (both migrants and their employers) opt for irregular migration. States need to address these obstacles to using legal channels, making them fit for the purpose of a system that is responsive to the needs of its users. Some legal channels, particularly for low-paid, temporary work, do not protect workers’ rights adequately.

States’ failure to maintain adequate legal pathways contributes to irregular migration, although irregularity is often blamed solely on migrants. Employers may also encourage irregular migration by turning a blind eye to lack of work authorization; some are willing to exploit the vulnerability of unauthorized migrants to pay substandard wages and otherwise violate the requirement for decent work. Several participants argued that irregular migration should not be treated as a criminal act; some states pointed out that they do not criminalize it but rather make efforts to adjust the status of those who arrive without prior authorization and allow them to claim regular status at least on a temporary basis if they are doing needed work.

A state representative made the case that legal pathways have a central place in a comprehensive migration policy, combined with other elements such as border protection, regional partnerships and capacity-building in countries of origin through foreign assistance

programs. A related topic that was brought up several times concerned the prevalence of informal work in developing countries. Work in the informal sector rarely gives migrants access to legal channels for migration yet demand for the kind of work that is usually done in the informal sector remains robust in countries of destination. Recognizing occupations and formalizing work in the informal sector is one step toward opening regular pathways to many more people.

2. Regulate recruitment.

The second most frequently and strongly reiterated point made in the discussion was that fair, legal and transparent labor recruitment processes are essential to reduce irregular migration. It would be a great benefit to migrants and employers alike if governments would actively accredit recruitment agencies after a sound due-diligence process. Employer-facing recruiters often work through intermediaries who identify potential migrants at the local level; these intermediaries also need to have their roles formalized so that they can be held accountable.

Participants in one break-out session heard a good example of a multinational company that worked with an NGO to clean up its supply chain after finding that one of its suppliers imposed excessive recruitment fees associated with debt bondage (as well as other unacceptable working conditions). The company repaid workers' fees and took over recruitment directly. The company representative made the case for capacity building to help small and medium enterprises in global supply chains understand and comply with rules on recruitment and labor authorization; embracing responsible business practices to avoid hiring patterns that encourage irregular migration will make them more attractive partners for multinationals.

3. Build strong partnerships

The theme of partnership came up repeatedly in multiple variations: state-to-state, state and private sector, business and civil society, local and regional governments with national governments and the business community. The regional consultation processes themselves were cited as examples of partnerships for mutual learning and cooperation. Partners from different sectors can help each other to identify irregular pathways as well as opportunities for opening additional regular channels.

Bilateral labor agreements are one form of partnership that can have an impact on irregular migration by providing alternatives to unauthorized movement. Participants identified free or liberalized movement within regional blocs as one of the most successful guarantors against irregular movement.

Regional partnerships have proven their value in helping to manage irregular migration, and here countries of transit have a responsibility along with countries of origin and destination. Some participants, however, lamented the lack of robust cooperation among regional partners

Alliances are especially important in combatting transnational criminal actors, many of whom are involved in trafficking in persons. One country or industry or civil society organization

cannot solve the problem of industry modern-day slavery alone. Participants emphasized the importance of regional processes to facilitate discussion and information sharing about issues relating to people smuggling and trafficking in persons. Trafficking and irregular migration are inextricably linked.

4. Regularize long-settled migrants

It was noted that many states have standing provisions for regularization of migrants who have lived peaceably in the country for many years, although the period of settlement and the conditions required vary considerably. In some cases, regularization may put migrants on a path to citizenship. Other programs are time-limited (although often extendable) and are intended to pull people out of the shadows and make sure they can access services that protect the whole community, such as health care and justice, and avoid destitution and the ills that accompany it. This is especially important for children. Without the protection of legal status, parents in irregular status may be afraid to send their children to school or take them to a clinic.

Regularizing irregular migrants is the best way to ensure their social integration and is the best tools to ensure everyone in the community can prosper. This point was made with particular force by representatives of local and regional authorities, who noted that regularization also facilitates migrants' ability to contribute economically to host communities. Legal status helps to ensure migrants are not exploited and can work in conditions that are safe and fair. Local authorities often play a key role in providing access to services for migrants regardless of status, including legal counsel.

5. Invest in better data and analysis

As in other policy domains, a strong evidence base and solid analysis are the foundations of good policymaking on prevention of irregular migration. Governments of countries of origin and countries of destination should work together and with other stakeholders to develop an in-depth understanding of irregular migration. Who benefits? Who are the movers? Why do people take the risks associated with irregular migration? The need to examine the underlying reasons for irregular migration is acute, so that policy can focus attention and resources where they are likely to produce an effect.

One Central American government representative reported on the creation of a migration observatory to get trustworthy data, including a census of returnees and their families. The survey revealed the chief motivations for irregular migration are the lack of economic prospects at home, the desire to join family in another country and fear springing from widespread criminal violence at home. These findings, which are not surprising, highlight the need to design policies and programs that are not solely focused on unemployment and labor recruitment. If there are legal pathways for workers but no way for their families to join them, the temptation of irregular migration may be strong.

Careful research can help to illuminate what factors persuade people to return home or to abandon the idea of migrating irregularly. It may be a decline in labor demand in traditional countries of destination as after the onset of the Great Recession in 2008 and now the pandemic-induced recession; it may be harsh enforcement or unease at apparent rising xenophobia. But there may be more positive factors at work, such as rising economic prospects in the country of origin, optimism around political developments or a more favorable demographic situation.

Preventing irregular migration is one of the most challenging and complex policy goals that states confront. The COVID-19 pandemic will only exacerbate the poverty and inequality that make the stakes so high for migrants who attempt to flout the rules that states have set to define legal pathways. The discussions in the GFMD regional consultations revealed a strong bias among the participants for positive approaches—broaden opportunities to move legally, make the recruitment process work better, cooperate with other states and a wide range of other partners, define as many people out of irregularity as possible and seek a better understanding of the problem. If these impulses are acted on, there is reason to be optimistic.