

# GOVERNANCE OF MIGRATION AND DEVELOPMENT

SUPPORTING EVIDENCE  
FOR THEMATIC AREA 3

NINTH GLOBAL FORUM ON  
MIGRATION AND DEVELOPMENT  
Bangladesh 2016 GFMD Research and Policy Initiative  
November 2016



International  
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International Organization for Migration (IOM)  
The UN Migration Agency



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## Acknowledgements

This report is one of three publications prepared for the Ninth Global Forum on Migration and Development (GFMD), under the GFMD Research and Policy Initiative, a collaborative effort of the International Organization for Migration (IOM), International Labour Organization (ILO) and United Nations Development Programme (UNDP) in Bangladesh.

The findings, interpretations and conclusions expressed herein do not necessarily reflect the views of IOM, ILO, UNDP or its Member States. The designations employed and the presentation of material throughout the work do not imply the expression of any opinion whatsoever on the part of IOM, ILO and UNDP concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

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**Research Team:** Jessie Connell (Coordinating author)  
Sarah Pugh (Lead author – Governance of Migration and Development)  
Themrise Khan (Lead author – Sociology of Migration and Development)  
Manolo Abella and Sabrina Kouba (Lead authors - Economics of Migration and Development)

**Publisher:** International Organization for Migration, Bangladesh  
House 13A, Road 136 Gulshan-1  
Dhaka-1212, Bangladesh  
Tel.: +88-02-55044806 - 817  
Fax: +88-02-55044818  
E-mail: iomdhaka@iom.int  
Internet: www.iom.int

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A group of migrant workers preparing their group based action plan to disseminate information on safe migration in the community in a village of Sirajganj District, Bangladesh.

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## Foreword

Migration and development are interdependent processes, driving change and stimulating new connections between individuals and societies in fields of economics, trade, technology, culture and religion. Human mobility is a means to diversify and strengthen livelihoods, as well as an avenue to escape persecution, conflict and disaster in times of adversity. With more than a billion people on the move in the world – internally and internationally – there is a need to ensure the protection of all migrants so that the full social and economic potential of migration can be realised in both countries of origin and destination.

In this spirit, the overarching theme of the Ninth Global Forum on Migration and Development (GFMD) is “Migration that works for sustainable development for all: Towards a transformative migration agenda.” The Ninth GFMD is the first event following the New York Declaration on Refugees and Migrants adopted by United Nations Member States in September 2016, which included a commitment to develop a “Global Compact on Safe, Orderly and Regular Migration”. It is also one of the first global summits since the adoption of the 2030 Agenda for Sustainable Development. As such, the Ninth GFMD is a major opportunity to build on these commitments and to promote a shared understanding of the important linkages between migration and development with the international community.

The IOM, ILO and UNDP have recognised the importance of enabling meaningful, informed debate on issues of migration and development, founded on a sound understanding of the types of initiatives and programmes already underway to support migrants and host communities around the world. Drawing together the collective knowledge of the three agencies, the GFMD Research and Policy Initiative has reviewed the evidence available in relation to the fields of Economics, Sociology and Governance – corresponding to the GFMD sub-themes. The reports gather insightful examples of policy initiatives and models of good, promising and emerging practices to stimulate ideas and inspiration, as well as messages of caution for participating Member States to consider in the formulation of their own responses to contemporary migration and development challenges.

Well-considered and conceptualized migration policy has never been more critical to assist migrants and host societies. The GFMD Research and Policy Initiative demonstrates the potential of collaboration and provides a significant contribution to the Ninth GFMD. As the Chair of the Ninth GFMD for 2016, I thank IOM, ILO and UNDP for their commitment to supporting the Government of Bangladesh and participating Member States of the GFMD.

**Md. Shahidul Haque**

Foreign Secretary, Government of Bangladesh  
Chair Ninth GFMD 2016

## Foreword

Human mobility – in its many forms – is a means of adaptation and a process which can expose people to heightened risks and vulnerabilities. With an estimated 244 international migrants in the world – including around 150 million migrant workers – migration is increasingly prominent in the political arena.

The GFMD was borne out of an appreciation that the relationship between migration and development is not well understood at global, regional and local levels. First conceived in 2007, the Forum is designed to enable United Nations State Members and Observers to promote international cooperation and share knowledge about issues of migration and development in a non-binding, consultative environment. The GFMD has gathered momentum over the past decade. As the Chair of the Ninth GFMD in 2016, the Government of Bangladesh is leading the debate at a formative time when the international context surrounding migrants is evolving rapidly.

To support the Chair, IOM, ILO and UNDP have jointly established the GFMD Research and Policy Initiative in an effort to champion the rights of all migrants and to promote informed, evidence-based discussion at the Ninth GFMD. The Initiative aims to complement the work of GFMD participants by providing materials, including good practices, promising and emerging initiatives and case studies relevant to the sub-themes and roundtables of the Ninth GFMD. The objective is to enable parties to share policy ideas and formulate initiatives based on a clearer understanding of the evidence available – and its limitations.

Migration and development intersect the work of IOM, ILO and UNDP in important, cross-cutting ways. IOM is the United Nations Migration Agency and principal intergovernmental organization in migration. Its mission is to promote humane and orderly migration by providing services and advice to governments and migrants in all contexts in which displacement, migration and resettlement occurs. ILO is the principal UN agency addressing the world of work and labour migration issues. ILO has established a body of international labour standards that apply to all workers, including migrant workers, and is an influential advocate and technical agency for improving labour migration governance and the conditions of migrant workers globally. UNDP's mission on sustainable human development is increasingly underpinned by the reality of mobility dimensions of poverty, governance, urbanisation and resilience, especially in fields of conflict, climate, disasters and environmental displacement.

The IOM, ILO and UNDP are very pleased to present a coordinated contribution to the Ninth GFMD, reflecting the complementary ways in which the three agencies are advancing different aspects of the migration and development agenda. Through working together, the agencies offer their combined knowledge and insight to support the formulation of better responses to migration and development challenges in Bangladesh and elsewhere.

The IOM, ILO and UNDP congratulate the Government of Bangladesh on their leadership in the field of migration and development at a time when the international landscape of migration is changing. We sincerely hope that the policies, ideas and knowledge captured by the GFMD Research and Policy Initiative promote innovative, equitable and sustainable migration policy. We look forward to seeing the work of all parties – State Members, UN Agencies and civil society – come to fruition during the Ninth GFMD Summit in Dhaka, Bangladesh 2016 and beyond.



**Srinivas B. Reddy**

Country Director  
ILO Country Office for  
Bangladesh



International  
Labour  
Organization



**Sarat Dash**

Chief of Mission  
IOM Bangladesh



International Organization for Migration (IOM)  
The UN Migration Agency



**Sudipto Mukerjee**

Country Director  
UNDP Bangladesh



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## LIST OF ACRONYMS

A2i	Access to Information
ACP	African, Caribbean and Pacific Group of States
ASEAN	Association of Southeast Asian Nations
COP	Conference of the Parties
ECOWAS	Economic Community of West African States
HFA	Hyogo Framework for Action
FAO	Food and Agriculture Organization of the United Nations
G2G	Government to Government
GMFD	Global Forum on Migration & Development
ICPD	International Conference on Population and Development
ICT	Information and Communications Technology
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
JMDI	Joint Migration and Development Initiative
MICIC	Migrants in Countries in Crisis
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
RCP	Regional Consultative Process
REC	Regional Economic Community
RMMS	Regional Mixed Migration Secretariat
SADC	Southern African Development Community
TCN	Third-country national
TPS	Temporary Protection Status
UN-DESA	United Nations Department of Economic and Social Affairs
UNISDR	United Nations Office for Disaster Risk Reduction
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	United Nations Population Fund
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNITAR	United Nations Institute for Training and Research
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
WHO	World Health Organization
WTO	World Trade Organization



# EXECUTIVE SUMMARY: THE GFMD RESEARCH AND POLICY INITIATIVE

## Background

Migration has become increasingly central to the agendas of governments around the world. With more people on the move than at any other time in history, many governments are facing significant pressures, both domestically and internationally, to find ways of adapting and responding to rapidly shifting realities. In many cases, policies and practices that may have been adequate in previous years are proving insufficient to meet new challenges.

Migration flows are being driven by a wide range of factors. Globalization, for example, has contributed to rapid changes in areas such as transportation, information and communication technologies (ICTs), income and wealth distribution, and the structure of global labour markets, all of which have contributed to new flows, forms and characteristics of international migration, including higher percentages of women on the move. At the same time, other drivers of migration, such as conflict, insecurity, fragile states, and environmental change are also contributing significantly to the global numbers, and motivations, of migrants.

These shifts and changes have highlighted the need for new approaches and responses to issues of migration, not just from States, but also from the wide array of other public, private and non-state actors and institutions that shape the landscape of migration governance. The growing recognition of migration's potential to contribute to processes of development has also sharpened the focus on how migration governance can best contribute to unlocking this potential. Related to this, there has also been an increasing emphasis on the need to protect and advance the human rights of migrants, regardless of their motivations or legal status.

To support the Ninth Global Forum on Migration and Development (GFMD), chaired by the Government of Bangladesh in 2016, IOM Bangladesh has established a joint IOM-ILO-UNDP GFMD Research and Policy Initiative aimed at complementing and providing additional empirical support to the roundtable discussions of the GFMD. As a collaborative effort of the ILO, IOM and UNDP in Bangladesh, the Initiative aims to identify good practices and promising policy initiatives relevant to the GFMD sub-themes. This paper focuses on the Governance of Migration and Development, sub-theme 3 of the Ninth GFMD.

## The Ninth GFMD

The GFMD is a voluntary, non-binding initiative of the United Nations Member States to engage and cooperate on issues of migration and development. It provides a platform for Member States to share ideas and develop solutions to address the linkages between migration and development in innovative and creative ways. The Government of Bangladesh is the Chair of the Ninth GFMD, a process which began in early 2016 after the Chairmanship of the GFMD was handed over from the Government of Turkey to Bangladesh on 31 December 2015. The Summit of the Ninth GFMD will be held in Dhaka, Bangladesh between 10-12 December, 2016, preceded by civil society days held on 8-9 December.

The overarching theme of the Ninth GFMD is “Migration that works for sustainable development for all: Towards a transformative migration agenda.” As one of the first global summits since the adoption of the 2030 Agenda for Sustainable Development in 2015, the Ninth GFMD is an opportunity to build on the 2030 Agenda and to develop a common understanding of its migration and development targets and indicators with the international community. The Ninth GFMD has three sub-themes (Economics, Sociology and Governance) and six round tables. Each sub-theme covers two roundtables respectively:<sup>[1]</sup>

1 For further detail, see the Concept Paper for the Ninth GFMD - Bangladesh 2016 “Migration that works for Sustainable Development for All: Towards a Transformative Migration Agenda”, available from: <https://www.gfmd.org/docs/bangladesh-2016>.

## Sub-themes and Roundtables of the 2016 GFMD

### 1. Economics of Migration and Development

- Roundtable 1.1. Lowering the costs of migration
- Roundtable 1.2. Connectivity and migration (people to people contact)

### 2. Sociology of Migration and Development

- Roundtable 2.1. Migration, diversity and harmonious societies
- Roundtable 2.2. Protection of the human rights of migrants in all situations

### 3. Governance of Migration and Development

- Roundtable 3.1. Migrants in situations of crises: conflict, climate change and disasters caused by natural hazards
- Roundtable 3.2. Principles, processes and institutions for orderly, safe, regular and responsible migration

## The GFMD Research and Policy Initiative

The GFMD Research and Policy Initiative is a collaborative effort of the IOM, ILO and UNDP in Bangladesh, aimed at identifying good practices and promising policy initiatives relevant to the GFMD sub-themes. The evidence gathered is intended to promote a shared understanding of migration and development challenges among participants of the GFMD in relation to each of the six roundtable themes, and to enable participants to develop recommendations and policy initiatives drawing on a clearer understanding of the evidence base available. The reports also aim to assess the evidence available to identify any perceived impact on migrant and host populations.

Three separate reports have been prepared for the Ninth GFMD as part of the GFMD Research and Policy Initiative, one for each of the GFMD sub-themes (Economics, Sociology and Governance). Each report covers the two relevant roundtables under the respective GFMD sub-theme. To present the materials in an accessible format, a set of criteria was used to broadly categorize the examples and initiatives gathered. In each of the reports, examples of policy programmes and initiatives are grouped into “good practices”, “promising practices”, “emerging practices” and “case studies”, depending on the level of evidence available and the complexity of the particular initiative. The strengths, weaknesses and unintended impacts of initiatives, policies and practices are also outlined wherever possible in the reports to provide ideas, lessons and examples for participating governments and other interested parties.

## Governance of migration and development

Governance issues are central to any progress towards the development of a transformative migration agenda that supports the achievement of the new 2030 Sustainable Development Agenda. While there are many aspects of migration governance that could be covered, this report on the Governance of Migration and Development focuses on the two governance roundtables of the Ninth GFMD:

- **Roundtable 3.1: Migrants in situations of crises: conflict, climate change and disasters caused by natural hazards; and**
- **Roundtable 3.2: Principles, processes and institutions for orderly, safe, regular and responsible migration**

Roundtable 3.1 engages with the key protection gaps faced by many cross-border migrants who are not recognized as refugees under the current international legal refugee regime, but who nonetheless have been compelled to leave their places of residence in search of safety, dignity, respect for their rights, and

the prospect of a secure livelihood.<sup>[2]</sup> While migrants displaced by crises may be displaced internally or across borders, the discussion of this Roundtable, and in this paper, will be confined to those who cross an international border, as they are currently not covered by any dedicated legal regime as yet, and are neither afforded any special protection measures nor systematically counted.<sup>[3]</sup> In this section, the cases and policies that are presented pay particular attention to the protection gaps faced by those who migrate due to climate change, natural hazards, conflict and other crises.

Roundtable 3.2 is premised on the recognition that the international architecture of migration governance currently falls short in many respects in the effective protection of migrants. This Roundtable theme therefore engages with questions of how the international community can better cooperate to ensure safe, orderly and regular migration, a commitment that has been made within the 2030 Agenda. It interrogates what might be needed to promote a global migration agenda and effective migration governance arrangements that can meet the considerable contemporary and future challenges migration presents. To do this, the report highlights various examples from around the world of governments and other actors taking tangible action towards enhancing migration governance, both within and across various levels of government and spheres of governance.

## Recommendations and future directions

The issues explored through the case studies and initiatives presented in this paper highlight the complexity of migration governance, and particularly the challenges faced by States and policy makers as they attempt to navigate this difficult terrain. While there are no easy solutions, there are, nonetheless, a number of important themes and possible future directions that emerge from the cases explored here.

## Expansion of protection mechanisms and innovative migration pathways

In the section relating to **Roundtable 3.1**, the presented case studies and initiatives highlight the need for the expansion of protection mechanisms for migrants experiencing crisis, and explore a range of contemporary examples and proposals for doing so. States and policy makers need to explore the introduction or expansion of temporary protection mechanisms, the development of, and adherence to, soft-law frameworks and guidelines, and the development of new formal international legal commitments.

The initiatives presented here also highlight the important work that has been taking place through global consultative processes, such as the Nansen Initiative, the Sendai Framework, and the Migrants in Countries in Crisis Initiative (MICIC). Moving forward, regional bodies, States, sub-national levels of government and civil society actors should work collectively towards incorporating the outputs of these processes into coordinated policies and tangible practices.

## Special attention to migrant children, especially unaccompanied children

Cases and initiatives highlighted here also speak to the urgency of ensuring adequate protection measures are in place for unaccompanied or separated migrant children.

Re-thinking heavily securitized approaches to migration governance would also assist to reduce pressures that drive individuals, including women and children, into more dangerous routes and methods of migration, inadvertently fuelling smuggling and trafficking networks, and compromising the protection needs of migrants experiencing crises. Policy alternatives to immigration detention also need to be considered, particularly for children, wherever possible.

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2 Global Forum on Migration & Development 2016 Concept Paper, Ninth Global Forum on Migration and Development. "Migration that works for Sustainable Development for All: Towards a Transformative Migration Agenda." (Bangladesh, 2016). p.6. Available from: <https://www.gfmd.org/gfmd-2016-concept-paper>.

3 Ibid., p.7.

## Cooperation and coordination, especially at the municipal level

In the section supporting **Roundtable 3.2**, the initiatives and cases studies presented suggest potential future directions in working towards orderly, safe, regular and responsible migration.

In order to realize migration-related goals, targets and indicators associated with the new Sustainable Development Agenda, regional bodies, States, sub-national levels of government and civil society organizations should work collaboratively, with particular attention paid to the role that cities and municipal authorities can play in effective migration governance.

The effective governance of migration requires cooperation and coordination across different levels of government, but States and policy makers should also work to effectively and consistently engage with other actors involved in migration governance, including civil society and NGOs, the private sector, foundations and academia.

Issues of migration should also be integrated within and across all relevant departments and institutions of State, such as those responsible for health, housing, social services, policing, and labour.

## Importance of non-binding, consultative processes

The importance of non-binding consultative processes, at both the regional and global levels, is strongly highlighted in the report, as these processes can advance migration-related dialogue, create and disseminate norms, set minimum standards (for example, regarding issues of labour migration, such as wages and working conditions). However, their non-binding nature also creates risks of non-compliance and inaction. Moving forward, the international community should work towards finding a balance between the informal and non-binding nature of these engagements, and the need for tangible action and accountability. More effective mechanisms of engagement with civil society and other non-state actors should also be explored.

## Role of information and communication technologies in enabling migration governance

Finally, cases highlight the potential of using information and communication technologies (ICTs) to promote safer migration. Those involved in migration governance should pay careful attention to the role that ICTs play in facilitating modern migration flows (both regular and irregular), and the ways in which ICTs can be used to improve migration governance through better data collection, and through facilitating safer, more equitable opportunities for migration.

## A NOTE ON METHODOLOGY AND CHALLENGES

The objective of the GFMD Research and Policy Initiative is to identify and document a range of good practices and promising initiatives in support of the Ninth GFMD roundtable themes. The project has been coordinated by IOM Bangladesh over a four month period (August-November 2016), drawing on support from ILO and UNDP based on their respective areas of thematic, regional and strategic expertise. Focal points were assigned within each agency to facilitate coordination and enable the compilation of good practices, completed studies, and research activities commissioned by the respective agencies nationally, regionally and globally.

The methodology employed has involved a review of the secondary literature available of such initiatives and supporting evidence, including evaluations and/or assessments of their success and/or potential. This has included gathering evidence on the thematic priorities of the GFMD through searches of peer-reviewed articles, grey literature (non-academic literature and research materials produced by organizations outside traditional academic publishing channels) to identify promising/emerging practices implemented by governments, United Nations agencies, development partners, civil society and communities around the globe.

The research team worked together across the three sub-themes (Economics, Sociology and Governance) to develop a common approach to the three reports. Given the vast range of interventions and policies in these areas, as well as the inconsistency in levels of evidence available of their outcomes, a set of criteria was developed to categorize the practices and policies according to the evidence available. Accordingly, the examples profiled in the reports have been organized in terms of good practices, promising practices, emerging practices and case studies. These categories, while often fluid and overlapping, were considered by the research team to have the following characteristics:

Category	Criteria for Selection
<b>Good Practice</b>	<ul style="list-style-type: none"> <li>• The program has been evaluated, ideally by an independent source, and the evaluation has identified some positive impacts for migrants and/or host populations, or;</li> <li>• There is a research report or assessment that can be referred to establishing positive or negative impact on either migrants and/or host populations.</li> </ul>
<b>Promising Practice</b>	<ul style="list-style-type: none"> <li>• Only partial evidence is available, but the practice is well-framed/conceptualized and targeted at a clearly identified need and demonstrates promise, even though it may need some refinement; and/or</li> <li>• The initiative demonstrates innovation and creativity, potentially relating to technology, partnership, use of resources; and/or</li> <li>• The initiative demonstrates promising early results, but has not been independently evaluated (however internal evaluations/reporting may suggest positive impact).</li> </ul>
<b>Emerging Practice</b>	<ul style="list-style-type: none"> <li>• There is no evidence available to assess the initiative, however, it illustrates an untested new idea or innovative initiative that meets a clearly identified need; and/or</li> <li>• The initiative may be promising once implemented, however it is too early to tell how its impacts will be felt.</li> </ul>
<b>Case Study</b>	<ul style="list-style-type: none"> <li>• A complex story/multi-dimensional policy problem or challenge; and/or</li> <li>• The initiative may be appropriately labeled a “Case Study”, where there is a need to tell a story of the complexity of a certain policy issue/challenge, especially over time; and/or</li> <li>• The initiative is a well-intentioned policy or practice, which has encountered challenges in implementation, or has had both positive and negative impacts, but is not supported by any particular evidence of good practice.</li> </ul>

During the research process, priority was given to examples which demonstrated innovation, positive impact, transferability (from one context to another), sustainability and appropriateness given the complexities of each societal and cultural context. Where possible, the unintended impacts of policies have been assessed in order to highlight challenges that may face policymakers in decision-making. Case studies have been developed based on the materials to convey the complexity of migration and development initiatives, designed to assist policymakers to identify appropriate considerations and ideas in a rapidly changing international migration policy landscape.

A key challenge encountered during the course of the literature search was the lack of or weak evidence available in relation to many of the initiatives and policies, in terms of robust and independent evaluations. Without this form of evidential support, it has been difficult to assess whether these initiatives and policies can be transferred, replicated or sustained.

Another limitation is that it has not been possible for the researchers of the GFMD Research and Policy Initiative to interview migrants who have been directly affected – either as beneficiaries or otherwise – by the initiatives profiled in the reports, in order to capture their assessments of how effective and inclusive the policies are in practice. However, many of the initiatives profiled have drawn indirectly on the views of migrants as incorporated into the secondary materials on which the reports rely. If the GFMD Research and Policy Initiative is sustained beyond the Ninth GFMD, it would be desirable to include a consultation stage once good and promising practices are identified, which more comprehensively captures the perspectives of migrants and implementers directly involved in the projects.

# 1 INTRODUCTION

## 1.1 Governance, Migration and Development

In recent years, migration governance, and in particular, the governance of migration for development, has increasingly featured in domestic, regional and international policy discussions and forums. Questions of how best to facilitate migration for development, what effective migration governance should entail, and what gaps remain, continue to occupy researchers, academics, civil society actors, politicians, and policymakers alike.

Answering these questions is complicated by different understandings of the concepts involved. For example, what is meant by the phrase “migration and development”? What does “migration governance” mean? What forms, features or processes of migration are in need of governance, and governance in whose interests? These questions, while difficult, are important to grapple with, as some normative consensus about the purposes of migration governance is particularly important in the development of transnational cooperative approaches to governance.

The concept of “governance” itself is complex, and there is no simple, agreed-upon definition of the term. According to the Canadian-based Institute on Governance, “governance determines who has power, who makes decisions, how other players make their voice heard, and how account is rendered.”<sup>[4]</sup> Governance relates to both the processes and the various actors involved in decision-making, towards specific societal or organizational goals. It exists within and across different contexts and sectors (for example, public, private and non-profit), and at various levels (for example, local, national, regional and international or global), encompassing a wide range of policies and practices. Importantly, it is often distinguished from the concept of “government” by the lack of one single over-arching authority and police powers to ensure the proper implementation of duly constructed policies.<sup>[5]</sup>

Exploring issues of migration governance, in particular, also entails establishing a shared understanding of the term “migration.” Migration is a deeply complex and multi-faceted phenomenon, and the governance of migration takes place across a wide range of very different issues, such as managing tourism and business travel and labour migration, trying to prevent or mitigate the causes of forced migration and displacement, managing the asylum and refugee regime, and addressing the irregular flows of migrants. Determining what constitutes effective or good practices in migration governance in each specific context requires clarity about the purpose, or underlying goals, of such governance. Further, States and policymakers are faced with the difficult task of designing and implementing migration policies for groups of individuals who do not always easily fit within specific administrative categories. Today’s complex flows of people can make it difficult to determine who is a “refugee,” and who is an “irregular migrant,” who has been “smuggled” and who has been “trafficked.” These lines, while obvious and distinct at times, are at other times blurred and indistinct. Yet, the protection needs of individuals vary substantially, according to their own particular circumstances and aspirations.

The governance of migration and development is also a complex concept. Global discussions around migration and development are often focused on an economic interpretation of “development,” largely

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4 Institute on Governance, “Defining Governance.” No date. Available from: <http://iog.ca/defining-governance/>

5 J.N. Rosenau and E.O. Czempiel (eds), *Governance without government: order and change in world politics*, Vol.20 (Cambridge: Cambridge University Press, 1992). p.4.



through initiatives designed to harness the developmental potential of remittances, estimated by the World Bank to be worth USD 582 billion in 2015. However, others conceptualize the linkages between migration and development through the lens of “human development,” or the enlargement of people’s freedoms, opportunities and well-being. While economic well-being is most often an integral part of this equation, the concept of “human development” is more expansive, and is also concerned with broader factors such as equity, empowerment, sustainability and human security.

At the heart of debates around how best to govern migration are the trade-offs, real or perceived, that are often associated with the movement of people, particularly across borders. Despite its risks, for many individuals, the decision to migrate represents the best opportunity for the improvement of access to work, safety, social, economic and political rights, opportunities, dignity and well-being. For States, however, the calculus of advantages and risk can look quite different, raising difficult and often sensitive questions related to resource allocation, security, public opinion, national identity and political risk. The social, economic and political imperatives of migrant-sending States may also be very different than migrant-receiving States, adding to the challenges of consensus regarding what constitutes the effective governance of international migration. Further, the impacts of various forms and processes of migration on both sending and host countries and communities are highly contextual, and seldom straight-forward. With all of this in mind, as Betts highlights, identifying gaps in migration governance requires a careful consideration of perspective.<sup>[6]</sup> From what perspective, and from whose perspective, are these gaps being identified and potentially addressed?

Despite these challenges, no country is unaffected by migration, and the growth in recent decades of regional and international forums, processes and institutions related to migration governance is testament to the fact that governments around the world are on the search for effective tools and strategies to address these challenges. The need for improved collective action around the governance of migration has never been stronger.

## 1.2 Global Drivers of Migration

In recent decades, processes of globalization (such as the increased flows of goods, finance, technology, and transportation) have intensified, and with them, so has the movement of people, both domestically and across international borders. While the international system is built upon the sovereignty and autonomy of individual States, globalization has led to a world in which many issues and policy arenas are increasingly interconnected across international borders, with the actions of one State having potentially important consequences for another. Issues such as climate change, environmental degradation, health, and migration, for example, have transnational implications, and the governance of these and other issues has become well beyond the capacity of any one State to manage on its own. Moreover, new migration patterns and flows can emerge and change rapidly, evolving much more quickly than the policies and practices of States, leaving policymakers and politicians struggling to “catch up” with events as they unfold.

Globalization has also created or exacerbated some of the key drivers of, and motivations for, migration. While globalization has contributed to unprecedented levels of global prosperity, its benefits have not been evenly distributed, and evidence suggests that inequality has risen across most countries and regions over the past two decades, including within middle to high-income countries.<sup>[7]</sup> While inequality and wealth disparities may constitute an important factor in people’s migratory decisions, people also migrate for other often interconnected reasons, including the inability to achieve a future at home that offers freedom, choice, health, safety, security, and educational and career opportunities. As Hein de Haas writes, “Rather than absolute poverty, a certain level of socioeconomic development, combined with relative deprivation in the form of global inequality of development opportunities, seems to be the most important cause of migration.”<sup>[8]</sup>

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6 A. Betts, Background Paper: WMR 2010. Migration Governance: Alternative Futures. International Organization for Migration (2010). p.1-23.

7 C. Horwood and T. Reitano, A Perfect Storm? Forces shaping modern migration & displacement, RMMS Discussion Paper 3, (2016). p.2. Available from: [http://www.regionalmms.org/images/DiscussionPapers/A\\_Perfect\\_Storm.pdf](http://www.regionalmms.org/images/DiscussionPapers/A_Perfect_Storm.pdf)

8 H. De Haas, “International migration, remittances and development: myths and facts,” Third World Quarterly, 26(8), (2005). p.1270.



Structural changes in economic global systems and shifting demographics have also contributed to new and increasing migration flows. For example, the integration of women into the paid labour force, challenges to traditional welfare state models, and ageing populations have presented many “developed” countries with labour shortages, particularly in the care sector, creating new and gendered migration pull factors, particularly for women.<sup>[9]</sup> At the same time, working age populations in emerging and low-income economies are growing quickly. In North Africa, Sub-Saharan Africa, India and China, for example, working age populations have been soaring and are expected to continue to rise rapidly between now and 2050, creating important demographic push factors, as people move to where there are believed to be greater opportunities.<sup>[10]</sup>

For many, the impetus to migrate may also involve generalized conditions of violence, conflict and insecurity in one’s country of citizenship, even in the absence of direct and individual persecution. The increasing frequency and intensity of climate-related disasters and environmental degradation has also contributed to the rise of people displaced or otherwise moving both within and across international borders. Shaping many of these movements are new and emerging information and communication technologies (ICTS), which have given rise to novel forms of information-exchange, creating opportunities for safer, better organized migration, on one hand, but also opening up new opportunities for irregular mobility, including new platforms for those involved in the smuggling and trafficking of migrants.

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9 A. Petrozziello, *Gender on the Move: Working on the Migration-Development Nexus From a Gender Perspective*, (Santo Domingo, Dominican Republic, UN Women, 2013). p.38.

10 C. Horwood and T. Reitano, *A Perfect Storm? Forces shaping modern migration & displacement*, RMMS Discussion Paper 3, (2016). p.6. Available from: [http://www.regionalmms.org/images/DiscussionPapers/A\\_Perfect\\_Storm.pdf](http://www.regionalmms.org/images/DiscussionPapers/A_Perfect_Storm.pdf)

## 2 MIGRANTS IN SITUATIONS OF CRISES: CONFLICT, CLIMATE CHANGE AND DISASTERS CAUSED BY NATURAL HAZARDS (ROUNDTABLE 3.1)

One of the most pressing contemporary issues in international migration governance is how to respond effectively to the needs of those individuals who are outside the borders of their own state of citizenship, in need of various forms of protection and long-term solutions, and yet who do not qualify for protection under the current international protection regime. As Betts notes, external displacement is increasingly being fuelled by factors related to the interplay between environmental change, livelihood collapse, and state fragility.<sup>[11]</sup> These drivers are often inter-related in complex ways. The modern refugee regime, however, created in the aftermath of the Second World War, continues to be geared towards the individualized persecution, and has largely been unable to account for these new, complex drivers of displacement. These protection gaps have recently been in the global spotlight, particularly through the High Level Summit on Refugees and Migrants<sup>[12]</sup> held on 19 September 2016, by the United Nations General Assembly (UNGA). This High Level Summit, which focused on large movements of migrants and refugees, produced a commitment to work towards two Global Compacts – one for refugees, and one for migrants – in advance of another planned intergovernmental meeting in 2018.

To support Roundtable 3.1, this section builds on these debates, through an exploration of current initiatives and good practices in terms of legal pathways and alternative avenues for protection for migrants in crises. It highlights areas in which international cooperation between governments and other stakeholders can be improved to address the needs of such migrants, in countries of origin, transit and destination.

### 2.1 Climate Change and Disasters Caused by Natural Hazards

It is generally accepted that global efforts to mitigate the effects of climate change have been, in many respects, too little, too late.<sup>[13]</sup> With climate change affecting most areas of world politics, including food, health, and migration, Biermann and Boas argue that what is needed now is effective “global adaptation governance,” to address the implications of climate change.<sup>[14]</sup> Globally, the multi-faceted and complex political challenges of climate change continue to be discussed and debated, particularly through the annual sessions of the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) (including this year’s COP 22, held November 7-18 in Marrakech, Morocco).

The potential for changing climate conditions to contribute to significant new flows of migration has been identified for at least 25 years, yet legal and normative frameworks, along with institutional roles and responsibilities related to climate-induced migration remain undeveloped.<sup>[15]</sup> The term “climate refugee” is often used to describe those displaced across international borders by climate-related changes or climate events, but in fact, there is no specific mandate within the current international legal refugee regime for the protection for such individuals.

Questions of how best to address the protection needs of such individuals and groups continue to be complicated by conceptual challenges regarding how to identify those who have been displaced specifically or even mainly because of climate-related factors, as opposed to other causes of migration, particularly given the interconnections that often exist between issues of climate change, natural disasters, urbanization,

11 A. Betts, “Survival Migration: A New Protection Framework,” *Global Governance*, 16(3), (2010). p.361-382.

12 For further information regarding this High Level Summit on Refugees and Migrants, please see: <http://refugeesmigrants.un.org/summit>

13 F. Biermann and I. Boas, “Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees,” *Global Environmental Politics*, 10(1), (2010). p.60.

14 Ibid., p.60.

15 S. Martin, “International Migration and Global Governance,” *Global Summitry*, 1(1), (2015).

environmental degradation, food insecurity, poverty and deprivation, and what are often the mixed motivations of individuals on the move. These issues are further complicated by the economic and political implications of climate change, particularly given that in general, many of the States that are, or will be, most negatively impacted by the effects of climate change are those which have contributed the least to its causes.

Nonetheless, the urgent need to find ways of addressing these protection gaps is underscored by studies predicting that by 2050, the number of people displaced by climate change may dwarf the number of refugees able to access assistance or protection under the 1951 Refugee Convention and its 1967 Protocol.<sup>[16]</sup> Indeed, claims have been made that global environmental change could drive the migration of anywhere from 50 to nearly 700 million people, by 2050.<sup>[17]</sup> Despite the scope and scale of these challenges, many States are taking action, both individually and collectively, in an attempt to better address the issues associated with climate-induced migration, recognising that climate change exacerbates other pre-existing environmental conditions.

In 2015, for example, the United Nations published the “Sendai Framework for Disaster Risk Reduction 2015-2030,” with the goal of achieving a substantial reduction of disaster risk, and losses in lives, livelihoods and health and assets of people, businesses, communities, and countries (United Nations 2015). The Framework is the outcome of stakeholder consultations that were initiated in March 2012, alongside inter-governmental negotiations that were held from July 2014-March 2015. The process was supported by the United Nations Office for Disaster Risk Reduction (UNISDR) at the request of the UNGA. As the successor instrument to the “Hyogo Framework for Action (HFA) 2005-2015: Building the Resilience of Nations and Communities to Disasters”, the Sendai Framework is a 15-year, voluntary, non-binding agreement, which recognizes that while the State has the primary role to reduce disaster risk, that responsibility should be shared with other stakeholders, such as local governments, the private sector, and others.<sup>[18]</sup> Importantly in terms of migration, the Sendai Framework explicitly considers displacement. It establishes the importance of transboundary cooperation to build resilience and reduce disaster risk at the global and regional levels, including displacement risk.<sup>[19]</sup> It also establishes the importance of national action to ensure effective response to disasters and related displacement.<sup>[20]</sup>

The Nansen Initiative represents another important step in global efforts to address these protection gaps. Launched in September 2012 by the governments of Norway and Switzerland, the Nansen Initiative was also a state-led, consultative process with the aim of building consensus on a Protection Agenda to address the needs of people displaced across international borders in the context of disasters and climate change. The Protection Agenda outlines measures and effective practices in relevant areas such as disaster risk reduction, climate change adaptation, and humanitarian actions, and was adopted by 109 states in Geneva, in October 2015. As a follow-up mechanism to the Nansen Initiative, and in order to work towards the implementation of the Protection Agenda, the Platform on Disaster Displacement was launched in Istanbul, in May 2016, at the World Humanitarian Summit (See Emerging Practice 1 for a discussion of the work of the Platform on Disaster Displacement).

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16 B. Docherty, B. and T. Giannini, “Confronting a rising tide: a proposal for a convention on climate change refugees,” *Harvard Environmental Law Review*, 33, (2009). p.349.

17 K. Warner, “Global environmental change and migration: Governance Challenges,” *Global Environmental Change*, 20(3), (2010). p.402.

18 United Nations, *Sendai Framework for Disaster Risk Reduction 2015-2030*, (2015). Available from: [http://www.unisdr.org/files/43291\\_sendaiframeworkfordrren.pdf](http://www.unisdr.org/files/43291_sendaiframeworkfordrren.pdf)

19 Global Forum on Migration & Development 2016 Concept Paper, Ninth Global Forum on Migration and Development. “Migration that works for Sustainable Development for All: Towards a Transformative Migration Agenda.” (Bangladesh, 2016). P.18. Available from: <https://www.gfmd.org/gfmd-2016-concept-paper>

20 Ibid., p.18.

## Emerging Practice 1: Platform on Disaster Displacement

In October 2015, the Nansen Initiative Protection Agenda was endorsed by 109 governmental delegations during a Global Consultation. The endorsement of this Protection Agenda represented a step forward in building consensus around how better to address the protection needs of people who are displaced across borders in the context of disasters.

To follow-up on the work of the Nansen Initiative consultative process, and to implement the recommendations outlined in the Protection Agenda, the state-led Platform on Disaster Displacement was established in 2016 by Germany (Chair) and Bangladesh (Vice-Chair). Along with Germany and Bangladesh, founding members of the Platform on Disaster Displacement include Australia, Brazil, Canada, Costa Rica, European Union, Fiji, France, Kenya, Madagascar, Maldives, Mexico, Morocco, Philippines, Senegal, and Switzerland.

The objective of the Platform on Disaster Displacement is “to strengthen the protection of people displaced across borders in the context of disasters, including those linked to the effects of climate change, and to prevent or reduce disaster displacement risks.”<sup>[21]</sup> To guide its work, four strategic priorities have been identified in the Platform’s 2016-2019 Strategic Framework, including:

1. Address knowledge and data gaps
2. Enhance the use of identified effective practices and strengthen cooperation among relevant actors to prevent, when possible, to reduce and to address cross-border disaster displacement at the national, regional and international levels
3. Promote policy coherence and mainstreaming of human mobility challenges in, and across, relevant policy and action areas
4. Promote policy and normative development in gap areas.<sup>[22]</sup>

The Platform on Disaster Displacement is comprised of a Steering Group, an Advisory Committee and a Coordination Unit. The Steering Committee consists of between 15-20 States as well as the EU, represented through their Permanent Missions in Geneva. The UNHCR and the IOM are also standing invitees to the Steering Group. The Advisory Committee is comprised of representatives of international and regional organizations, research institutions, academia, private sector, NGOs, and other civil society stakeholders with relevant expertise, and provides expert input and advice to the Steering Group.<sup>[23]</sup> Finally, the Coordination Unit supports the Members of the Steering Group and relevant partners at the national, regional and global levels, “in developing and implementing the Platform’s activities to fulfill the strategic priorities.”

The Platform on Disaster Displacement represents an important opportunity to continue building on the global momentum inspired by the Nansen Initiative, and to take its work forward in an effort to begin translating the Protection Agenda into practice.

The Migrants in Countries in Crisis (MICIC) initiative is another important contemporary state-led initiative concerned with addressing gaps in the international protection regime. Specifically, the MICIC initiative is aimed at improving the capacities of states as well as other stakeholders, such as civil society, the private sector, regional institutions, and international organizations, to respond to the protection needs of migrants

21 Platform on Disaster Displacement. Strategic Framework 2016-2019. Available from: <http://disasterdisplacement.org/wp-content/uploads/2016/10/02062016-PDD-Strategic-Framework-FINAL.pdf>

22 Ibid.

23 Platform on Disaster Displacement, “About Us,” Available at: <http://disasterdisplacement.org/about-us/>

caught in countries experiencing acute crises, such as conflicts and civil unrest, and natural disasters.

The MICIC initiative encompasses all migrants/non-citizens, regardless of their legal status, who are either temporarily or permanently in a country at the time a crisis ensues. In June 2016, MICIC published a set of non-binding “Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster,” available in all official UN languages. The initiative has also worked to gather examples of current relevant practices from various States and regions, which have been highlighted in its website’s “Repository of Practices.” (See Promising Practice 1).

### **Promising Practice 1: Examples from the Migrants in Countries in Crisis (MICIC) Repository of Practices**

MICIC is a state-led initiative to improve the ability of States and other stakeholders to address the particular vulnerabilities and protection gaps that are often faced by migrants caught in countries in crisis.

To support the project, the MICIC website also contains a publically available “Repository of Practices,” which consists of some existing practices of civil society, private sector actors, international organizations and States that illustrate actions being undertaken by these stakeholders in relation to migrants in the context of conflicts or natural disasters. This box highlights three examples, around translation services, awareness-raising, and consular sharing agreements.

Translation, for example, has been highlighted in the work of MICIC as an important component of preparedness and emergency response for migrants in countries experiencing a crisis. Japan’s Miyagi Prefecture has implemented a “Disaster Volunteer Interpreter” program, recognizing that the inability of some foreign nationals residing there to communicate adequately in Japanese can create potentially life-threatening vulnerabilities in the context of a natural disaster, such as an earthquake. The project, coordinated by the Miyagi International Association, facilitates the provision of volunteer interpreters to provide support for foreign nationals in Miyagi, particularly through the translation of relevant information at the time of a crisis or emergency (such as current conditions and updates, explanations of the rules and procedures of refuge centres, and medical information).<sup>[24]</sup>

The MICIC guidelines also note that awareness-raising campaigns for prevention, preparedness, and emergency response procedures “can provide migrants with necessary information to protect themselves during crises.”<sup>[25]</sup> In some contexts, however, language barriers and illiteracy may be barriers to effective communication. As an example of how governments are meeting such challenges, the Australian government has developed a series of “pictorial action guides,” with the country’s culturally and linguistically diverse communities in mind, in order to provide an accessible format for educating all residents regarding the risks associated with natural hazards that may occur in Australia.<sup>[26]</sup> These pictorial action guides each depict a different hazard (covering cyclones, earthquakes, floods, heat waves, lightning and severe storms), showing good and bad actions in relation to each specific hazard.

Access to emergency consular services can also be important for assisting cross-border migrants caught in countries in crisis. Where consular functions may not be present in a host or transit state, the MICIC guidelines highlight the possibility of activating consular agreements with other States

24 Miyagi Prefectural Government, “Disaster Volunteer Interpreter Program.” <http://www.pref.miyagi.jp/site/faeng/volunteer-en.html>

25 Migrants in Countries in Crisis, Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (2016). p.62. Available from: [https://micicinitiative.iom.int/sites/default/files/document/MICIC\\_Guidelines\\_english\\_web\\_13\\_09\\_2016.pdf](https://micicinitiative.iom.int/sites/default/files/document/MICIC_Guidelines_english_web_13_09_2016.pdf)

26 Australian Disaster Resilience Knowledge Hub. Community Safety Action Guides. Available from: <https://emknowledge.org.au/resource/5861>

that could implement consular functions.<sup>[27]</sup> Canada and Australia, for example, have a Consular Sharing Agreement that enables Canadians to receive consular services from Australian officials in 20 countries where there is no Canadian office. Similarly, Australians are able to seek such assistance from Canadian missions in 23 countries.

Initiatives such as the Nansen Initiative, the Sendai Framework, the Platform on Disaster Displacement and MICIC have all played, and continue to play, an important role in advancing knowledge, debates and responses to the issues of climate and disaster-induced displacement, and how best to address migrants caught in countries of crisis. However, much remains to be done to translate this work into policies and tangible practices to provide the kind of protection that will continue to be required by increasing numbers of people facing displacement due to climate-induced disasters and crises.

Importantly, the frameworks and guidelines emerging from these processes are non-binding. This reflects the contemporary political climate in which many States are reluctant to commit to new, binding international protocols or conventions, being wary of possible future repercussions of their initial support.<sup>[28]</sup> Non-binding agreements, however, create the risk that when States are faced with significant political or financial pressures, or when the national interest is perceived to be compromised, commitments to such agreements can be tenuous.

Recognizing the potential shortcomings of non-binding international protocols and frameworks, some researchers, academics and other stakeholders advocate for a new international legally binding instrument to address these protection gaps. Docherty and Giannini have argued for the development of a new independent convention to address the protection needs of “climate change refugees,” which, among other functions, should address: prevention and remediation, establish guarantees of human rights protections and humanitarian aid, spread the burden of fulfilling those guarantees across home states, host states and the international community, and form institutions to implement the provisions (such as a global fund, coordinating agency, and a body of scientific experts).<sup>[29]</sup> Biermann and Boas have also argued for a new legal instrument, in the form of a Protocol on Recognition, Protection, and Resettlement of Climate Refugees to the UNFCCC, as well as a new separate funding mechanism (they propose a “Climate Refugee Protection and Resettlement Fund”).<sup>[30]</sup> Work from the Center for Participatory Research and Development also argues for a new Legal Protocol under the UNFCCC, for a long-term, rights-based solution to climate-induced displacement and migration.<sup>[31]</sup>

Currently, the main responsibility for meeting the protection needs of climate-displaced migrants remains with migrants’ home countries, which Biermann and Boas argue “contradicts the global responsibility for the victims of climate change.”<sup>[32]</sup> This represents a particular burden for those most impacted by climate change, and who have no choice but to prepare and adapt. In some regions of the world, countries are undertaking their own unilateral or bilateral initiatives to plan and prepare for climate change displacement. In the Republic of Kiribati, for example, in preparing for the potential necessity of climate-induced migration, the government has purchased 5500 acres

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27 Migrants in Countries in Crisis, Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (2016). p.106. Available from: [https://micicinitiative.iom.int/sites/default/files/document/MICIC\\_Guidelines\\_english\\_web\\_13\\_09\\_2016.pdf](https://micicinitiative.iom.int/sites/default/files/document/MICIC_Guidelines_english_web_13_09_2016.pdf)

28 J. Gest, “Avoiding Evasion: Implementing International Migration Policy,” Georgetown Immigration Law Journal, 24, (2010). p.645.

29 B. Docherty, B. and T. Giannini, “Confronting a rising tide: a proposal for a convention on climate change refugees,” Harvard Environmental Law Review, 33, (2009). p.350.

30 F. Biermann and I. Boas, “Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees,” Global Environmental Politics, 10(1), (2010).

31 Center for Participatory Research and Development Climate-Induced Displacement and Migration: Policy Gaps and Policy Alternative, (2015). Available from: <http://cprdbd.org/papers/BriefingPaperClimateInducedDisplacementAndMigration.pdf>

32 F. Biermann and I. Boas, “Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees,” Global Environmental Politics, 10(1), (2010). p.74.



of land in Fiji, and has been promoting a “migration with dignity” agenda, in which pro-active steps to prepare citizens for migration are identified and enacted (see Case Study 1).

## Case Study 1

### Planning for Climate Change-induced Migration: The Case of Kiribati

The estimated number of people who will be displaced by global environmental change in the coming decades remains a subject of contention, ranging from 50 to almost 700 million by 2050.<sup>[33]</sup> The Pacific Islands have been identified as particularly vulnerable to the impacts of climate change, including the loss of coastal lands, the increasing frequency and severity of cyclones, the loss of coral reefs, changes in rainfall patterns, threats to drinking water supplies, threats to agricultural production, and the potential submerging of entire communities.<sup>[34]</sup> Ironically, globally, the impacts of human induced climate change are also expected to be greatest in developing nations, even while these nationals have generally contributed the least to rising atmospheric greenhouse gas concentrations.<sup>[35]</sup>

Kiribati is one such nation, comprised of 32 coral atolls and reef islands, and one raised limestone island, totaling 800 km<sup>2</sup> of land dispersed over 3.5 million square kilometres.<sup>[36]</sup> Home to just over 100,000 people, Kiribati is also one of the Pacific’s poorest countries, with a gross national income in 2014 of USD 2,434 per capita.<sup>[37]</sup> Approximately half of Kiribati’s economy is supported by foreign sources, with a significant shift in aid resources over the past 15 years being channelled into climate change adaptation.<sup>[38]</sup> In 2003, the World Bank launched its Kiribati Adaptation Program, which focused largely on a combination of hard and soft adaptation measures to protect against sea level rise.

However, Kiribati’s former President Anote Tong (who served from 2003-2016) also drew attention to the need to prepare for the possibility that the large-scale migration of i-Kiribati might be necessary in the future, as the impacts of climate change intensify. Former President Tong has called migration the “brutal reality” of climate change, and has called for an approach of “migration with dignity,” in which migration opportunities ought to be actively incorporated as a component of climate adaptation strategies, as opposed to waiting until circumstances produce “climate refugees.”<sup>[39]</sup>

Some researchers suggest that such planned migration represents a much better policy option for countries facing mass displacements due to climate change, as opposed to waiting for the need for mass evacuations induced by disaster or by the severe deterioration of living conditions. Kelly Wyett, for example, has argued that for Kiribati, an approach of planned migration is preferable for three reasons.<sup>[40]</sup> Firstly, she argues that the costs of relocation are non-linear, and depend on the number of migrants who have already left Kiribati and established communities in host nations.<sup>[41]</sup> Secondly, Wyett argues that planned migration decreases the probability and (more expensive) cost of an evacuation in the future, as conditions in Kiribati approach those equivalent to a humanitarian

33 K. Warner, “Global environmental change and migration: governance challenges,” *Global Environmental Change*, 20(3), (2010). p.402-413.

34 M. Loughry and J. McAdam, “Kiribati – relocation and adaptation,” *Forced Migration Review*, 31(51), (2008). p. 2.

35 S.D. Donner and S. Webber, “Obstacles to climate change adaptation decisions: a case study of sea-level rise and coastal protection measures in Kiribati,” *Sustainability science*, 9(3), (2014). p.331-345.

36 Ibid., p.331.

37 United Nations. Human Development Report 2015. Briefing note for countries on the 2015 Human Development Report: Kiribati. (2015).

38 2014. Donner, S. D., & Webber, S. Obstacles to climate change adaptation decisions: a case study of sea-level rise and coastal protection measures in Kiribati. *Sustainability science*, 9(3): p.333

39 A. Tong, “Migration is the ‘brutal reality’ of climate change” (2016). *Climate Change News*. Available from: <http://www.climatechangenews.com/2016/06/21/anote-tong-migration-is-the-brutal-reality-of-climate-change/>

40 K. Wyett, Escaping a rising tide: sea level rise and migration in Kiribati. *Asia & the Pacific Policy Studies*, 1(1), (2014). p.174.

41 Ibid., p.174.

emergency, “requiring not only far higher outward migration, but a greater sense of urgency, greater social dislocation, less scope for planning and greater logistical needs.”<sup>[42]</sup> Thirdly, those remaining in Kiribati would be able to benefit from planned migration, which could help reduce population pressure on the resource base by lowering the population, and which could provide a source of income through remittances from i-Kiribati abroad.<sup>[43]</sup> She proposes that bilateral migration deals between Kiribati and Australia and New Zealand present the best policy options.<sup>[44]</sup>

In 2014, Kiribati purchased a 5500 acre freehold property on Vanua Levu, in Fiji, for approximately USD 8.8 million. While any resettlement of i-Kiribati to Fiji would still be subject to bilateral agreements and Fiji’s own national policies, the purchase made global news. Former President Tong told the Associated Press, “We would hope not to put everyone on [this] one piece of land, but if it became absolutely necessary, yes, we could do it.”<sup>[45]</sup> Some researchers, however, are less convinced of the motivation of the purchase, or the feasibility of a large-scale relocation to the land, questioning whether the purchase may have been made for reasons more symbolic than practical.<sup>[46]</sup>

For some citizens of Kiribati, the idea of such planning for migration is not popular, with a 2016 New York Times report citing concerns from some i-Kiribati that funds such as those used to purchase the land would be better used to address issues of high unemployment and infant mortality at home, while many others “remain skeptical of the need to prepare for an eventuality that may be decades away” if it comes at all.<sup>[47]</sup>

However things unfold in Kiribati, the broader, global challenges of climate change migration remain. As Wyett has highlighted, getting to policy right in Kiribati is of particular importance, as the way in which these challenges are handled by the international community is likely to set a global precedent.<sup>[48]</sup>

## 2.2 Conflict and Crises: Migration Governance Challenges

The IOM’s Migration Crisis Operational Framework uses the term “migration crisis” to describe the complex and often large-scale migration flows and mobility patterns caused by a crisis which typically involve significant vulnerabilities for individuals and affected communities and generate acute and longer-term migration management challenges.<sup>[49]</sup> The framework notes that such a crisis may be sudden or slow in onset, and that it may have natural or man-made causes. This can include climate change-induced disasters, massive human rights violations, generalized violence, severe destitution and food insecurity.

Over the last two years, the dramatic flows of migrants into Europe from countries such as Syria, Afghanistan, Iraq, and Eritrea have helped to focus international attention on the challenges of protecting migrants in large, mixed movements, many of whom have different motivations for migration and are travelling along similar routes. Many are indeed asylum seekers, eligible for international protection under the current legal refugee regime, and yet many others within these flows will not qualify, although they too have serious

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42 Ibid., p.174

43 Ibid., p.174.

44 Ibid., p.174.

45 L. Caramel, “Besieged by the rising tides of climate change, Kiribati buys land in Fiji,” The Guardian, (1 July 2014). Available from: <https://www.theguardian.com/environment/2014/jul/01/kiribati-climate-change-fiji-vanua-levu>

46 J. Ellsmoor and Z. Rosen, “Kiribati’s land purchase in Fiji: does it make sense?” DevPolicyBlog, (11 January 2016). Available from: <http://devpolicy.org/kitibatis-land-purchase-in-fiji-does-it-make-sense-20160111/>

47 M. Ives, “A Remote Pacific Nation, Threatened by Rising Seas,” New York Times, (July 2 2016). Available from: [http://www.nytimes.com/2016/07/03/world/asia/climate-change-kiribati.html?\\_r=0](http://www.nytimes.com/2016/07/03/world/asia/climate-change-kiribati.html?_r=0)

48 K. Wyett, Escaping a rising tide: sea level rise and migration in Kiribati. Asia & the Pacific Policy Studies, 1(1), (2014). p.183.

49 International Organization for Migration (IOM), Migration Crisis Operational Framework, MC/2355. (Geneva, 2012). Available from: <http://www.iom.int/mcof>



protection needs, and may be fleeing some kind of existential threat in their own countries of origin. Similar challenges have long been experienced in other regions of the world, as States struggle with questions of how best to address the issue of displaced people who are not formally recognized as refugees. Migrants caught in countries experiencing conflict represent another group that can easily fall through the gaps of current protection systems, presenting States and international organizations with substantial challenges in meeting protection needs. (See Good Practice 1 for an example of how Bangladesh responded to the evacuation and repatriation of migrants when conflict erupted in Libya in 2011).

States and other actors involved in the governance of migration have responded to these challenges in a number of different ways, including “soft-law” approaches (such as non-binding international agreements, guidelines and frameworks), the development and implementation of bilateral and national level policies, and regional agreements. Many States are also searching for policies and practices around issues such as detention, the protection of children, and how best to minimize harm both in countries of origin and transit.

### **Good Practice 1: The Evacuation and Repatriation of Migrants Caught in a Country in Conflict: The Case of Bangladeshi Migrants in Libya in 2011**

In February 2011, the eruption of violent conflict in Libya shone a spotlight on the difficult situation of migrants (often migrant workers) who find themselves caught in a country experiencing conflict and crisis. Many migrants experience potential language barriers, cultural differences, and may also be relegated to the economic margins of societies.<sup>[50]</sup> Migrants may not be included in conflict or disaster planning and protection frameworks in host countries, and some may not be able to return, or be repatriated, due to adverse conditions in their countries of origin. This case study highlights the collaborative efforts of the IOM, the Government of Bangladesh, and the World Bank in financing and facilitating the evacuation and repatriation of Bangladeshi migrant workers affected by the Libyan crisis.

The conflict in Libya led to the large scale displacement and evacuation of migrants from the country. Before the crisis, Libya hosted an estimated 1.8 million migrants, but from February to November 2011, nearly 800,000 migrants fled Libya to Tunisia, Egypt, Chad, Algeria, Niger, as well as Greece and Italy, about 45 per cent of whom were third-country nationals (TCNs).<sup>[51]</sup> The IOM, with its mandate and experience in emergency operations, was able to provide assistance and protection to many migrants who might otherwise not have received it, assisting in the repatriation of 217,060 migrants through ground, sea and air transportation.<sup>[52]</sup> Yet, it was working in the absence of an international framework that could fully address this protection gap, and securing adequate funding for these evacuations and repatriations proved a challenging undertaking.

The largest return movement outside of Africa was to Bangladesh, with the World Bank reporting the repatriation of a total of 36,713 conflict-affected Bangladeshi workers.<sup>[53]</sup> To help facilitate the return and reintegration of Bangladeshi migrants, the Government of Bangladesh took a loan from the World Bank for USD 40 million. The objectives of the loan were to support the Government of Bangladesh in the timely repatriation of migrant workers from refugee camps in neighbouring

50 B. Kelly and A.J. Wadud, “Asian Labour Migrants and Humanitarian Crises: Lessons from Libya.” IOM and Migration Policy Institute, Issue in Brief: Issue 3 (July 2012). p.1.

51 Ibid., p.2.

52 B. Mawby and S. Martin, “Evacuation and Repatriation of Migrants in Countries Experiencing Conflict or Natural Disaster,” Migrants in Countries in Crisis Initiative Issue Brief, (September 2016)

53 World Bank, “Implementation Completion and Results Report: Bangladesh Repatriation and Livelihood Restoration for Migrant Workers” (IDA 49400), Report No. ICR2596, (2013). p.9. Available from: <http://documents.worldbank.org/curated/en/901411468205172001/pdf/ICR25960P126260C0disclosed030270130.pdf>

countries, and to provide a one-time cash grant as a transitional safety net measure to help these workers meet their immediate basic needs, and to commence the process of livelihood restoration.<sup>[54]</sup> In collaboration with the IOM, the Government of Bangladesh established procedures for processing returnees upon their arrival in Bangladesh, including special immigration, medical, and help desks.<sup>[55]</sup> The Government also organized transportation for returnees to central bus terminals, and mobilized emergency resources to provide each returnee with the fare for bus transportation to their homes.<sup>[56]</sup> Further, the Government of Bangladesh provided the services of its national air carrier, Biman, to transport returning migrants.

In a 2013 World Bank evaluation of this project loan, the project was found to have achieved its development objectives, noting that the project demonstrated that fast track emergency operations for migration are indeed feasible.<sup>[57]</sup> Through exercising some degree of flexibility in the application of its rules, the World Bank was able to be responsive to the Government of Bangladesh in the face of this emergency.<sup>[58]</sup> The success of the project revealed such a mechanism as a funding option for governments in the face of potential future similar events.

While the evacuation and repatriation of Bangladeshi migrant workers fleeing the Libyan conflict was successful in many respects, the returns nonetheless created new challenges for some returning migrants and their families. Some migrants, for example, recounted being relieved to be home, yet feeling overwhelming concern regarding their financial situation, no longer able to access the work for which they had migrated.<sup>[59]</sup> Many returned home with very little, or nothing, some with large migration-related debts.<sup>[60]</sup> Others felt shame or embarrassment returning to their families with no income or work.<sup>[61]</sup>

Since these events unfolded, global progress continues to be made towards addressing this important protection gap, for example, through the MICIC initiative and the recent development of the MICIC Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster.

## 2.3 Temporary protection: national responses

One example of a national level approach is the South African government's attempt to regularize the stays in South Africa of large numbers of Zimbabwean citizens fleeing political and economic turmoil in their home country, through the development of special short-term permitting projects (the Dispensation of Zimbabweans Project, followed by the Zimbabwe Special Dispensation Permit). While not without substantial challenges, these permitting projects have gone some way in addressing (at least temporarily) some of the key protection needs of Zimbabweans currently living in South Africa. (See Case Study 2).

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54 Ibid. p.5.

55 Ibid., p.12.

56 Ibid., p.12.

57 Ibid., p.17.

58 Ibid., p.1

59 B. Kelly and A.J. Wadud, "Asian Labour Migrants and Humanitarian Crises: Lessons from Libya." IOM and Migration Policy Institute, Issue in Brief: Issue 3 (July 2012). p.3.

60 Ibid. p.3.

61 Ibid. p.3.

## Case Study 2

### Temporary Protection for Registered Zimbabweans in South Africa

Ongoing political and economic turmoil in Zimbabwe has led to high levels of emigration from the country. While no one knows the precise numbers, in 2010 the IOM estimated there were roughly four million Zimbabweans living outside the country.<sup>[62]</sup> Neighbouring South Africa plays host to a substantial number of Zimbabwe's diaspora, but again, the precise numbers are unknown. Poor data collection on migration numbers and trends, combined with the unwillingness of many irregular Zimbabweans to be counted, has meant that while popular estimates range from between one and three million, the data cannot be substantiated, and an accurate picture remains elusive.

South Africa's first refugee legislation came into force in 2000, following the end of the apartheid regime in 1994. However, for policy makers in South Africa, the influx of large numbers of Zimbabweans presented a social, economic and political challenge. The volume of Zimbabwean asylum applicants was putting significant strain on the country's nascent asylum system, and there were also important political sensitivities around the formal recognition of Zimbabweans as a group in need of international protection in South Africa.

Between September 1 and December 31, 2010, South Africa's Department of Home Affairs (DHA) implemented the "Dispensation of Zimbabweans Project" (ZDP), in an attempt to document and regularize the stays of Zimbabweans irregularly in the country, and to provide amnesty for those who had been relying on fraudulent identity documents. During this window, the DHA received 294,511 applications, out of which 242,731 were granted.<sup>[63]</sup> Those granted the new permit were given the right to study, work or conduct business in South Africa for a four year period from the date of issue. In August, 2014, the DHA announced a new three-year Zimbabwe Special Dispensation Permit (ZSP), for which only those with an existing ZDP permit would be eligible. The DHA has stated that at the end of 2017, there will be no more extensions, and Zimbabweans wishing to stay in South Africa will be required to apply through regular, existing immigration channels to apply for the right to study, work or conduct business in South Africa. To do so, they will be required to return to Zimbabwe.

While the number of Zimbabweans who have applied for and been granted these permits remains limited compared to estimates of the numbers of Zimbabweans in South Africa, the ZSP and ZDP processes have provided legal status and temporary protection for a large population of vulnerable people. The right to study, work or conduct business has provided a means of social and economic inclusion in South Africa, and contributed to the substantial remittance flows between South Africa and Zimbabwe. For those whose permits expire at the end of 2017, however, there remains substantial uncertainty and insecurity regarding the future, particularly for the many who will not qualify for the right to study, work, or conduct business under the requirements of the country's Immigration Act.

South Africa, which is currently in the process of revising its international migration policies, is also now implementing a dispensation process for nationals from Lesotho in the country, in an attempt to regularise the stay of the 400,000-500,000 Basotho nationals estimated to be living in South Africa.

Another example of a national level response to help meet the protection gaps of the current international refugee regime is the affording of "Temporary Protection Status" (TPS) to eligible migrants in the United

62 "IOM Supports Zimbabwe National Statistical Agency Efforts to Identify Diaspora," Available from: <https://www.iom.int/news/iom-supports-zimbabwe-national-statistical-agency-efforts-identify-diaspora>

63 S. Chiumia and A. van Wyk. "Factsheet: The new special dispensation permit and what it means for Zimbabweans in South Africa," Available from: <https://africacheck.org/factsheets/what-does-the-new-special-dispensation-permit-mean-for-zimbabweans-in-sa/>

States. TPS provides temporary humanitarian protection to hundreds of thousands of migrants living in the United States who are unable to return to their home countries for reasons such as natural disaster, or war, even though these individuals would not meet the legal criteria to be eligible for protection under the country's refugee protection laws. Case Study 3 (see below) presents a case study of the provision of TPS for Haitians living in the United States, following the devastating 2010 earthquake in Haiti. It outlines some of the benefits and challenges of this approach to protection.

### Case Study 3

#### Humanitarian Protection Options: Temporary Protected Status (TPS) for Haitians in the U.S.A.

On January 12, 2010, Haiti was struck by a devastating magnitude 7.0 earthquake. While estimates of the death toll are in dispute, the Haitian government's official figure puts the number of people who died in the quake at 316,000.<sup>[64]</sup> Hundreds of thousands are estimated to have been injured, and a further 1.7 million people displaced by the disaster.<sup>[65]</sup>

In the United States, the scale of the humanitarian crisis, including the total collapse of infrastructure in the capital city of Port au Prince, prompted the January 15, 2010 decision by the Department of Homeland Security (DHS) to grant Temporary Protection Status (TPS) for 18 months to Haitian nationals who were in the United States as of January 12, 2010.<sup>[66]</sup> In May 2011, this status was extended and re-designated for eligible individuals who arrived up to one year after the earthquake; subsequently, the DHS has continuously extended the time frame for TPS for Haitians, with the current designation effective through to July 22, 2017.<sup>[67]</sup> Following the earthquake, deportations of Haitian nationals was also suspended for a year, followed by a modified, slow-track deportation policy for those irregularly in the country, and not eligible for TPS.

Since 1990, hundreds of thousands of non-citizens living in the United States and unable to return to their countries of origin due to natural disasters or war, have been offered a form of blanket humanitarian protection through the granting of TPS.<sup>[68]</sup> Those afforded TPS are granted temporary legal permission to live and work in the United States, without fear of deportation. TPS provides some measure of protection to many who would otherwise not legally meet the specific criteria of the country's refugee protection laws, which adhere closely to 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, and is based on an individualized assessment of each application. TPS may be granted under the following conditions: there is ongoing armed conflict posing a serious threat to personal safety; a foreign state requests TPS because it temporarily cannot handle the return of nationals due to environmental disaster; or there are extraordinary and temporary conditions in a foreign state that prevent people from returning

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- 64 J. Wells, "Researchers dispute Haitian government's death toll from 2010 earthquake," The Star. 11 March 2013. Available from: [https://www.thestar.com/news/insight/2013/03/11/researchers\\_dispute\\_haitian\\_governments\\_death\\_toll\\_from\\_2010\\_earthquake.html](https://www.thestar.com/news/insight/2013/03/11/researchers_dispute_haitian_governments_death_toll_from_2010_earthquake.html)
- 65 Food and Agriculture Organization of the United Nations. "Haiti Earthquake 2010," Available from: <http://www.fao.org/emergencies/crisis/haiti-earthquake-2010/en/>
- 66 L. Seghetti, K. Ester, and R.E. Wasem. "Temporary Protected Status: Current Immigration Policy and Issues. Congressional Research Service 7-5700," (2015).
- 67 United States Citizenship and Immigration Services News Release, "Temporary Protection Status Extended for Haiti," (25 August 2015). Available from: <https://www.uscis.gov/news/news-releases/temporary-protected-status-extended-haiti>
- 68 C. Bergeron, "Temporary protected status after 25 years: addressing the challenge of long-term" temporary" residents and strengthening a centerpiece of US humanitarian protection," Journal on Migration and Human Security, 2(1), (2014). p.22-43.

(providing that granting TPS is consistent with U.S. national interests).<sup>[69]</sup>

While TPS represents an important protection mechanism for migrants who may be unwilling or unable to return to their countries of origin due to crises, it also raises some important challenges and debates. One such challenge is that, given the protracted nature of some crises or unsafe conditions in some countries of origin, the “temporary” nature of TPS can become much longer than initially anticipated, which has resulted in ongoing political contention regarding TPS. Honduran and Nicaraguan citizens applying for TPS must be able to demonstrate they have been continuously residing in United States since December 30, 1998, meaning they have been in the country for over 15 years.<sup>[70]</sup> A second important challenge is that TPS explicitly does not place recipients on a pathway towards permanent residence.<sup>[71]</sup> Individuals receiving continuously extended TPS can be in the country for many years, building lives, equity, and new identities, but are nonetheless unable to fully integrate due to the ongoing “temporary” nature of their legal rights in the country. Further, there is no provision for family reunification.

There are also challenges regarding how to best manage the revocation of TPS, and how best to manage the chain migration and family unity challenges that may occur as new populations establish themselves in a host country. Recently, in response to a surge in Haitian immigrants arriving in the United States, there has been a shift in U.S. policy towards Haitian migrants, with the DHS Secretary announcing in September 2016 that special protections against the deportation of Haitian immigrants will be ended.<sup>[72]</sup> While this will not apply to those still under TPS, the shift will allow for Haitians who arrive at the border without visas to be put into expedited removal proceedings.<sup>[73]</sup> However, this shift will also require the cooperation of the Haitian government, which will need to issue the necessary documents to receive its citizens.

## 2.4 Regional Responses and Expansions of the Concept of “Refugees”

Attempts to address these protection gaps have also taken shape at the regional level, through the development of regional instruments to more flexibly interpret, or broaden the meaning, of existing human rights instruments. For example, the 1984 Cartagena Declaration on Refugees broadened the definition of refugee for Latin American signatories. The Cartagena Declaration declares in Article III (3) that the recommended definition or concept of a refugee is one which, “in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees people who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”<sup>[74]</sup> On the 30th anniversary of the Cartagena Declaration the governments of Latin America and the Caribbean met in Brazil, in December 2014, for a two day meeting that culminated in the adoption by 28 countries and three territories of the Brazil Declaration and Plan of Action. Building on previous regional frameworks and agreements, the Brazil Declaration and associated Plan of Action provide concerted direction for addressing new regional displacement trends and ending statelessness by 2024.

69 L. Seghetti, K. Ester, and R.E. Wasem. “Temporary Protected Status: Current Immigration Policy and Issues. Congressional Research Service 7-5700,” (2015).

70 C. Bergeron, “Temporary protected status after 25 years: addressing the challenge of long-term” temporary” residents and strengthening a centerpiece of US humanitarian protection,” *Journal on Migration and Human Security*, 2(1), (2014).p.29.

71 Ibid., p.22.

72 J. Edwards, “U.S. to boost Haitian deportations, but Haiti may not take them,” *Reuters*, (22 September 2016). Available from: <http://www.reuters.com/article/us-usa-immigration-haiti-idUSKCN11S1A0>

73 K. Semple, “U.S. to Step Up Deportations of Haitians Amid Surge at Border,” *New York Times*, (22 September 2016). Available from: [http://www.nytimes.com/2016/09/23/world/americas/haiti-migrants-earthquake.html?\\_r=0](http://www.nytimes.com/2016/09/23/world/americas/haiti-migrants-earthquake.html?_r=0)

74 The Cartagena Declaration is available from: [https://www.oas.org/dil/1984\\_Cartagena\\_Declaration\\_on\\_Refugees.pdf](https://www.oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf)

The 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa is another example of a regional instrument that expands, or broadens, the concept of refugee beyond the 1951 Convention, to include “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”<sup>[75]</sup> While such regional agreements can provide an important avenue for extended protection, it is also necessary to recognize that there is often a significant gap between the existence of such regional instruments, and their effective incorporation into domestic law, policy and practice at the level of individual States. Indeed, providing adequate protection for those who currently fall through existing protection gaps may require States to re-visit some of their existing approaches to migration governance.

## 2.5 Policies and Practices of Detention

Struggling to find ways to deal with the pressures of migration, and particularly irregular migration, States in many parts of the world have increasingly turned to practices of immigration detention. For some States, immigration detention represents a way of ensuring compliance with deportation orders, or for dealing with large and often mixed inflows of migrants, including migrants in crisis who fall through current gaps in international protection systems. For other states, detention is an implicit or explicit tool of immigration deterrence. Some destination countries are also increasingly investing in the capacity of neighbouring transit states to detect and detain migrants, raising important concerns about the ethics and impacts of this “externalization” of border functions. Conditions of detention vary widely across contexts, from purpose-built facilities to prisons that also house individuals with criminal offences. The length of individual detentions can also vary considerably across contexts.

However, policies and practices of detention may run counter to the individual’s protection needs, with potentially negative impacts on social and economic inclusion, and migrants’ capacity to participate in host societies. An important and growing body of evidence also points to the detrimental short and long-term effects of detention on the mental and physical health of detainees, effects which can be particularly damaging for women and children, and which appear to be exacerbated by the duration of the migrant’s detention.<sup>[76]</sup> For many individuals who have already experienced significant trauma in their lives and migration journeys, detention often represents yet another layer of trauma and uncertainty. While it is estimated that there are hundreds of thousands of individuals in detention around the world, the number of detainees at any one time is unknown.<sup>[77]</sup> Further, the inaccessibility of many detention centres has made it difficult for researchers, the media, and rights monitors to adequately monitor and report upon conditions of detention.

The issue of immigration detention, and the call for alternative approaches, has also been raised within the work of International Organizations (IO), such as the United Nations General Assembly (UNGA), the United Nations Human Rights Council, the United Nations Office of the High Commissioner for Human Rights, and the United Nations High Commissioner for Refugees. Recently, the detention of children has been an issue of particular focus. In an April 2016 report to provide background and recommendations in preparation for the UNGA High Level Summit on Refugees and Migrants on September 19, 2016, the UN Secretary General called upon States “to consider alternatives to detention for purposes of immigration control and to adopt a commitment never to detain children for this purpose.”<sup>[78]</sup> At the summit, all 193 UN Member States

75 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, CAB/LEG/24.3. (1969).

76 K. Robjant, R. Hassan, and C. Katona, “Mental health implications of detaining asylum seekers: systematic review,” *The British Journal of Psychiatry*, 194(4), (2009) p.306-312.

77 International Detention Coalition, “There are Alternatives: A handbook for preventing unnecessary immigration detention (Revised Edition).” (Melbourne, Australia, 2015).

78 S.56, A/70/59. April 21, 2016. “In safety and dignity: addressing large movements of refugees and migrants: Report of the Secretary-General.”



adopted the “New York Declaration,” a set of political commitments that includes a commitment to work to end the immigration detention of children.

Amidst the increasing recognition of the human costs of detention, along with what are often significant financial costs and risks, many states are beginning to actively seek out new models of migration governance and alternative approaches to detention. (See Promising Practice 2.)

## Promising Practice 2: The International Detention Coalition’s Handbook on Alternatives to Detention

Despite the current increase in immigration detention practices globally, a number of countries are also currently undertaking legislative and policy reform that would limit the use of detention, avoid the detention of specific vulnerable groups, and introduce new, community-based options for supervision.<sup>[79]</sup> In order to research, document and disseminate some of the policies and practices that various states around the world are exploring or implementing as alternatives to immigration detention, the International Detention Coalition (IDC)<sup>[80]</sup> has compiled a report documenting more than 250 specific examples of alternative policies and practices in over 60 countries.

The IDC’s 2015 research publication, “There are Alternatives: A handbook for preventing unnecessary immigration detention,” is an updated version of a 2011 report on the same theme, expanding its scope to include research on 20 additional countries with varied migration contexts. The handbook provides guidance for policy makers seeking to strengthen migration governance systems by exercising their authority at international borders in a way that is aligned with their human rights obligations.<sup>[81]</sup>

It provides examples of policies and practices that contribute to migration governance in a way that aims to treat all asylum seekers, refugees and migrants humanely and in compliance with international and national law, benefits local populations and minimises national security concerns, achieves case resolution in a timely manner, and ensures cost effectiveness.

For example, research informing the Handbook shows that alternatives have been shown to be up to 80 per cent less expensive than detention, and that alternatives have much lower operation costs than detention, increase independent departures (in which a migrant leaves of his or her own accord, rather than being deported) and avoid litigation and compensation claims resulting from wrongful detention or harmful impacts.<sup>[82]</sup> The research shows that alternatives to detention can also achieve high compliance rates, achieving up to 95 per cent appearance rates at immigration hearings and up to 69 per cent independent departure rates for refused cases.<sup>[83]</sup> The IDC report notes that “alternatives, particularly those incorporating case management and legal advice, also assist in achieving efficient and sustainable outcomes by building confidence in the immigration process and reducing unmeritorious appeals.”<sup>[84]</sup> Alternatives to detention are also better placed to uphold the rights of asylum seekers, refugees, stateless people, irregular migrants and other migrants, as they can avoid the harms of detention, reduce exposure to overcrowding and long-term detention, and enable

79 R. Sampson and G. Mitchell, “Global trends in immigration detention and alternatives to detention: practical, political and symbolic rationales,” *Journal on Migration and Human Security*, 1(3), (2013).

80 The IDC is a network of over 300 civil society organisations and individuals in more than 70 countries that advocate for research and provide direct services to refugees, asylum-seekers and migrants affected by immigration detention.

81 International Detention Coalition, “There are Alternatives: A handbook for preventing unnecessary immigration detention (Revised Edition).” (Melbourne, Australia, 2015). p.i.

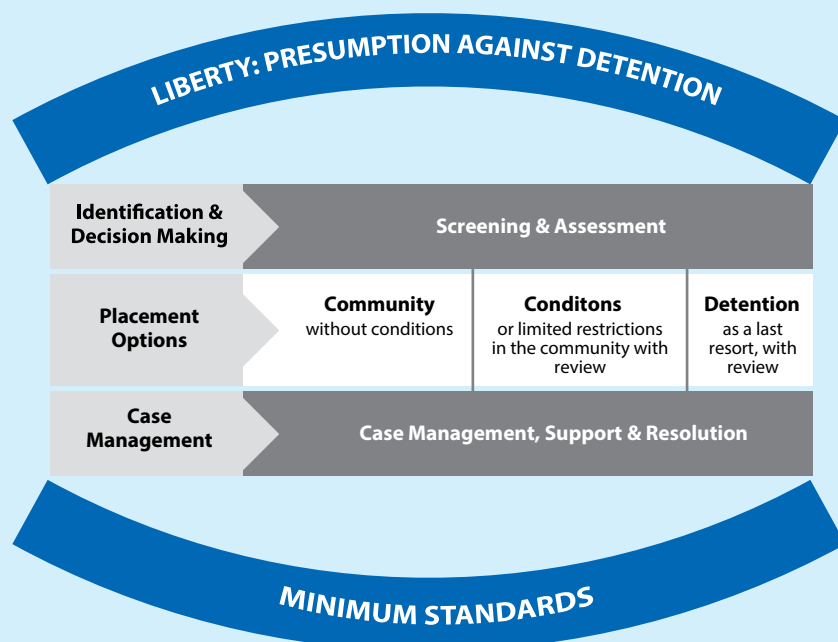
82 Ibid., p.iii.

83 Ibid., p.iii.

84 Ibid., p.iii.

greater access to programmes that support health and welfare.<sup>[85]</sup>

The IDC's research program also entailed the incorporation of the alternatives identified across a range of countries into one overarching framework, the Revised Community Assessment and Placement Model (Revised CAP model), which can be used by governments, civil society and other stakeholders as a tool to build systems that ensure detention is used only as a last resort, and that community options result in optimal outcomes.<sup>[86]</sup> The elements of the Revised CAP model are broken down and described in detail in the handbook, including specific examples of how different states in very different migration contexts are designing and implementing policies and practices that support such a model. The handbook is available at: <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>



Revised CAP Model. Reprinted with permission, International Detention Coalition 2015.

## 2.6 Children and Unaccompanied Minor Migrants

The large movements of people into Europe in recent years have also highlighted new, or intensified, governance challenges around the protection of children and unaccompanied minors, with or without asylum claims, and have called attention to important gaps in meeting the protection needs of this particularly vulnerable group of migrants. Since 2013, for example, the number of unaccompanied minor asylum seekers in the EU has skyrocketed. In 2015, nearly 90 000 unaccompanied minors registered as asylum seekers in EU Member States, with slightly more than half being from Afghanistan.<sup>[87]</sup> Ninety-one per cent of these asylum seekers were males, over half aged 16-17 years, while those aged 14-15 years accounted for 29 per cent, and those under 14 made up 13 percent.<sup>[88]</sup>

The issue of unaccompanied minor migrants, mostly travelling from Central America, has also presented

85 Ibid., p.iii

86 Ibid., p.v.

87 Eurostat Press Release 87/2016. Almost 90 000 unaccompanied minors among asylum seekers registered in the EU in 2015, (2 May 2016). Available from: <http://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/> (accessed 17 October 2016).

88 Ibid.



significant challenges in recent years for the government of the United States, with a peak of 137,000 unaccompanied minor migrants arriving in the 2014 fiscal year.<sup>[89]</sup>

While these major flows of unaccompanied minor migrants have received significant attention, issues associated with the effective protection of migrant children are global in scope. Worldwide, States and other stakeholders are looking for guidance and effective practices towards the protection and promotion of migrant children's rights and well-being.

Both accompanied and unaccompanied migrant children have specific, and sometimes complicated, protection needs, and although the rights and protections of such children are often clearly outlined in law and policy, in practice, systems and resources have in many respects been significantly overwhelmed by such large numbers. In Europe, in recent years, thousands of children have simply vanished out of the sight of the formal systems and institutions meant to address their needs. Many stakeholders are currently engaged in attempting to prevent and respond to this issue, but significant challenges for policy makers and practitioners remain (see Promising Practice 3).

### **Promising Practice 3: The “Summit Handbook: Practical Guidance on Preventing and Responding to Unaccompanied Children Going Missing”**

In January 2016, Europe's criminal intelligence agency Europol estimated that at least 10,000 unaccompanied child migrants had disappeared after arriving in Europe.<sup>[90]</sup> That figure, however, is estimated by many national governments, Interpol and NGOs to be conservative.<sup>[91]</sup> In Germany alone, the country's interior ministry reported in 2015 that almost 6,000 refugee children and minors were reported missing through the year.<sup>[92]</sup> The NGO “Missing Children Europe” reports that up to half of the number of unaccompanied migrant children who are placed in certain reception centres in Europe vanish annually, many within the first 48 hours of placement.<sup>[93]</sup> As reported in *The Guardian*, the exact scale of this crisis remains unclear, as overwhelmed and often rudimentary registration systems have made it difficult to establish a clear picture of the numbers of children arriving in Europe, and to track their onward journeys.<sup>[94]</sup>

The reasons behind these disappearances are complex and still poorly understood. Some migrant children are known to actively evade reception centres, in an attempt to reach the ideal destination that they have in mind, access the labour force in a specific area, or rejoin family members in another country. Other motivations may include fear of negative asylum application outcomes and fear of removal, or the avoidance of age assessment.<sup>[95]</sup> However, there is also concern that migrant children

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- 89 M. Rosenblum, “Unaccompanied Child Migration to the United States: The Tension between Protection and Prevention,” Migration Policy Institute (2015). Available from: <http://www.migrationpolicy.org/research/unaccompanied-child-migration-united-states-tension-between-protection-and-prevention>
- 90 M. Townsend, “10,000 refugee children are missing, says Europol,” *The Guardian*, (30 January 2016). Available from: <https://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>
- 91 A. Mucci and G. Paravicini, “Europe's quiet crisis: ‘missing’ migrant children,” *Politico*, (5 March 2016). Available from: <http://www.politico.eu/article/going-underground-europes-lost-migrant-children/>
- 92 K. Connolly and E. Graham-Harrison, “Almost 6,000 refugee children went missing last year, says Germany,” *The Guardian*, (12 April 2016). Available from: <https://www.theguardian.com/world/2016/apr/12/almost-6000-refugee-children-missing-last-year-germany>
- 93 Missing Children Europe website. Available from: <http://missingchildreneurope.eu/news/Post/575/Up-to-50-of-unaccompanied-migrant-children-go-missing-within-48-hours-of-being-placed-in-certain-reception-centres-in-Europe>
- 94 K. Connolly and E. Graham-Harrison, “Almost 6,000 refugee children went missing last year, says Germany,” *The Guardian*, (12 April 2016). Available from: <https://www.theguardian.com/world/2016/apr/12/almost-6000-refugee-children-missing-last-year-germany>
- 95 “Children in crisis: Unaccompanied Migrant Children in the EU” House of Lords Paper 34, European Union Committee 2nd Report of Session 2016-2017, (July 2016).

may be particularly vulnerable to trafficking, kidnapping, and sexual and economic exploitation.

In response to this issue, a new 2016 handbook called “Summit Handbook: Practical Guidance on Preventing and Responding to Unaccompanied Children Going Missing,” has been published by Missing Children Europe, developed in the framework of the EU co-funded project “SUMMIT” – Safeguarding Unaccompanied Migrant Minors from going missing by Identifying Best Practices and Training Actors on Interagency Cooperation, launched in 2014. The handbook has been designed around the results of a report exploring best practice and key challenges for interagency cooperation around this issue, which looked at how best to combine the expertise and facilitate the cooperation of those primarily involved in caring for unaccompanied migrant children (such as guardians, social workers and reception professionals), and those who focus primarily on the disappearance of children (such as hotlines and law enforcement). Chapter 5 of the handbook explores good practices and provides practical tools in the areas of prevention, response, after care and training, with tools available in English, Italian, Greek and Spanish. For more information and to access the Handbook and related research, see: <http://missingchildreneurope.eu/summit>

## 2.7 Minimizing Harm in Countries of Origin and Transit

To address the protection needs of migrants in crisis, governments and other stakeholders will need to cooperate across a wide range of often inter-connected issues. This will include efforts to minimize harm in countries of origin and in transit, and will involve ongoing efforts towards addressing the underlying causes of displacement, including through the planning and implementation of effective humanitarian and development assistance. However, it will also involve the active consideration, or re-consideration, of some existing approaches to migration governance.

While the focus of the 2016 GFMD Roundtable 3.1 discussions is confined to those who cross international borders, governance approaches that would effectively address the issue of migrants in crisis must also necessarily pay heed to the vast global numbers of internally displaced people (IDPs), whether this displacement results from war and conflict, natural disaster, food insecurity, deprivation or climate change. The global total of IDPs now stands at more than 38 million people, with the Internal Displacement Monitoring Centre recording higher levels of displacement than ever before.<sup>[96]</sup> Where conditions for internally displaced people (as well as those displaced across borders) are inadequate to meet people’s multifaceted needs, and with few prospects for “durable solutions,” the decision to migrate onwards (secondary migration) may follow.

Further, in the absence of safe and legal options for migration, many migrants are relying on the services of smugglers to facilitate their onward journeys. Factors such as tightening borders, the securitization of migration, difficulties in accessing asylum, and the externalization of borders have led more and more people to undertake dangerous journeys in harsh conditions to reach their migration goals. These journeys can entail dangerous transit through countries experiencing instability or conflict, where migrants are at risk of violence (including sexual violence), kidnapping, trafficking and other forms of abuse. They can also entail facing the risks of natural hazards, with life-threatening attempts to cross deserts and oceans. The IOM’s Missing Migrants Project, which attempts to track migrant deaths on different migratory routes around the world, places the count of migrant fatalities since 2000 at more than 46,000. Yet, there is still a dearth of data surrounding migrants’ journeys in many parts of the world. This lack of data has important implications for the capacity of policy makers and other stakeholders to design and implement effective interventions towards meeting the protection needs of migrants in crisis. Promising Practice 4 (below) presents one innovative new initiative from the Regional Mixed Migration Secretariat, based in Nairobi, around the collection of data related to migration routes and risks in the Horn of Africa.

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96 J. Carling, A. Gallagher and C. Horwood, “Beyond Definitions: Global migration and the smuggling-trafficking nexus, RMMS Discussion Paper No:2, (2015). Available from: [http://www.regionalmms.org/images/DiscussionPapers/Beyond\\_Definitions.pdf](http://www.regionalmms.org/images/DiscussionPapers/Beyond_Definitions.pdf)

#### **Promising Practice 4: Innovative Use of ICTs to Capture Migrant Data: the 4mi Project of the Regional Mixed Migration Secretariat, Horn of Africa**

This box highlights the Regional Mixed Migration Secretariat's (RMMS) "Mixed Migration Monitoring Mechanism Initiative," (or "4mi") as one example of a promising, innovative project in data collection and research around complex mixed migration flows in the Horn of Africa. The 4mi initiative was created in mid-2014 with support from the Intergovernmental Authority on Development (IGAD), to address the need for better data on mixed migration flows, with the objectives of informing policy, debate and programmatic responses, identifying protection gaps, and establishing deeper knowledge of regional migration flows. It provides a rare and important glimpse into the poorly understood and highly dangerous migration routes of this region.

Research in such a context can be exceedingly challenging, especially where migration flows are often clandestine, smuggler-dominated, and varied in their routes and methods of movement. To meet these challenges, 4mi utilises a network of 42 locally-recruited people to work as monitors in strategic migration hubs in Northern, Eastern, and Southern Africa.

Using a custom-designed mobile phone application, these local monitors are able to interview migrants at various points of their journeys. They can then submit real-time data regarding migration flows in their own vicinity, building critical knowledge around the movement of Eritrean, Ethiopian, Djiboutian and Somali people on the move in the region. The data collected by 4mi's local monitors provides detailed insights into migrants' profiles and journeys, with a particular focus on protection issues, including migrants' deaths, missing people, kidnapping, sexual abuse, physical abuse and lack of food and water along different regional migratory routes, mapping and presenting this information visually through filterable mappings and info-graphics available on the 4mi website. To date, the project has collected survey data from more than 2,500 migrants from Djibouti, Eritrea, Somalia and Ethiopia.

In September 2016, more people were recruited to be 4mi monitors in Germany, Sweden, Norway and Denmark, to help forge connections between origin, transit and destination countries. The project is also being implemented in transit countries in West Africa for migration to Europe (Mali, Niger) and in Asia (Afghanistan, India, Indonesia), where local monitors will collect real-time data regarding the mobility of Afghan citizens towards South East Asia and Australia.

4mi is a project of the Regional Mixed Migration Secretariat, established in 2011 to serve as a dedicated entity focused on research and analysis around mixed migration flows in the region. With an emphasis on human rights, protection and assistance, the RMMS was created in response to key recommendations from the Regional Conferences on Mixed Migration in the Gulf of Aden in Yemen (2008) and Djibouti (2009). While daunting methodological challenges mean that the data collected through the 4mi project is not perfect, the initiative represents an important innovation in attempting to address what are still substantial knowledge gaps around migration flows and challenges within and beyond the region.

*For more information, please see: <http://4mi.regionalmms.org/4mi.html>*

Increasingly, mixed flows of migrants around the globe have pushed the limits of the existing international architecture of migration governance. In many respects, it has become difficult (and sometimes impossible) to separate the protection needs of those asylum seekers who fit the legal criteria of the international refugee protection regime, from those who may have fled their countries of origin for other reasons, such as climate change, natural disasters, state fragility or collapse, severe destitution, or the incapacity to meet

basic human needs and rights. Facing the new realities of migration will require creativity, sincere efforts to identify and address the root causes of displacement and migration, and a genuine commitment from all stakeholders to uphold and protect the human rights of all. This section has presented some of the key issues and important initiatives currently underway to address these complex challenges, and to work towards the addressing the protection needs of all migrants.

# 3 PRINCIPLES, PROCESSES AND INSTITUTIONS FOR ORDERLY, SAFE, REGULAR AND RESPONSIBLE MIGRATION (ROUNDTABLE 3.2)

In recent years, increasing attention has been paid to enhancing cooperative migration governance efforts. Migration governance involves a wide range of actors and institutions at multiple levels, across the public, private and non-governmental sectors, many of whom hold diverse and even conflicting interests. This diversity of actors and interests, combined with the many different types of mobility and motivations for migration, makes the forging of effective processes, mechanisms and institutions for international collective action around issues of migration a difficult undertaking.

Nonetheless, states have increasingly accepted that such collective action is necessary, and the 2030 Sustainable Development Agenda emphasizes the need for international cooperation to ensure safe, orderly, regular and responsible migration. To support Roundtable 3.2, this section explores some promising and emerging practices and efforts at multiple levels of governance, as well as some of the current limitations of existing principles, processes and institutions. This section also highlights some current debates regarding what is needed to promote a global migration agenda and effective migration governance arrangements that can better meet contemporary challenges.

## 3.1 Actors, Institutions and Modes of Migration Governance

Migration has the potential both to impact, and be impacted by, decisions made at multiple levels and spheres of government, both vertically and horizontally. While policy making around migration often falls primarily to a specific department of government, policy makers engaged with issues such as education, housing, health care, transportation and infrastructure must also engage with migration, at local, national, regional and international levels of governance. Building effective partnerships among stake holders (including States, local authorities, regional and international organizations, private sector and civil society) will require the forging of stronger linkages within and between these various spheres of governance.

## 3.2 Global Governance of Migration

At the international level, a range of institutions and actors are involved in issues of migration governance, which presents both opportunities and challenges in terms of leadership, responsibility, and coordination. Multilateral institutions engaged in various aspects of international migration governance include the IOM, the UNHCR, the International Labour Organization (ILO), the World Bank (including its Global Knowledge Partnership on Migration and Development project (KNOMAD)), the International Monetary Fund (IMF), and the World Trade Organization (WTO). Further, in 2016, the IOM was formally incorporated into the UN system as the UN Migration Agency.

However, given the nature of migration, other institutions and organizations also have important overlapping functions around migration, including, amongst others, the World Health Organization, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) and UN Women and the United Nations Department of Economic and Social Affairs (UN-DESA). Inter-agency mechanisms such as the Global Migration Group assist in bringing together heads of various agencies to advance the application of relevant international and regional instruments and norms relating to migration, and to encourage the adoption of more coherent, comprehensive and better coordinated approaches to the issue of international migration.<sup>[97]</sup>

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97 Global Migration Group. Available at: <http://www.globalmigrationgroup.org/>

Recent decades have also seen the emergence of a new range of global processes and policy forums related to issues of migration governance. Amongst others, these have included the International Conference on Population and Development (ICPD) in Cairo in 1994, the Hague Process (launched in 1999 by the Society for International Development of the Netherlands), the Berne Initiative (started by the Swiss government and running from 2001-2005), the IOM's International Dialogues on Migration, the Doyle Report on International Migration in 2002, the Global Commission on International Migration, the first UN High-Level Dialogue on Migration and Development in 2006 and the second in 2013, and the launch of the GFMD in 2007, which has continued annually (see Promising Practice 5). On September 19, 2016, the UNGA also hosted the High Level Summit on Refugees and Migrants, to address the movements of large numbers of refugees and migrants.

### **Promising Practice 5: Advances in Multilateral Governance: The Global Forum on Migration and Development (GFMD)**

Since it was first held in Brussels in 2007, the GFMD has provided an annual platform for State-led, informal and non-binding engagements related to the migration and development nexus. Open to all States Members and Observers of the UN, the GFMD aims to advance understanding and cooperation related to the mutually reinforcing relationship between migration and development, and to foster practical and action-oriented outcomes.<sup>[98]</sup> The forum was launched following the September 2006 report of the UNGA High Level Dialogue on Migration and Development, affording States an opportunity to engage with the often sensitive and controversial issues of migration, outside of formal UN processes. The GFMD also entails vibrant “Civil Society Days,” the organization and programming of which is coordinated by the Civil Society Coordinating Office, in close cooperation with the GFMD International Steering Committee. A “Common Space” has also been organized for 2016, to bring together State participants, civil society delegates and other relevant stakeholders for direct engagement.

While the GFMD has helped to fill an important niche at the global level (through helping to advance migration-related dialogue, creating and disseminating norms, and raising the priority of migration-related issues), there remain ongoing challenges in terms of its structure, inclusivity and impact. Paradoxically, the features of its institutional structures that lend it its strength, such as its voluntary and non-binding nature, are the same features that can inhibit its effectiveness. Betts notes that the non-permanent and informal nature of the GFMD is simultaneously a weakness of its structure, and argues that its theme-based approach means that only certain issues and concerns can be placed on the agenda, with the risk of little continuity or follow up.<sup>[99]</sup> Further, he notes that the GFMD is not fully inclusive of States, international organizations and NGOs.<sup>[100]</sup> While the GFMD has made increasing efforts since its inception to engage with civil society, there is an ongoing call from many civil society actors to be allowed representation in the government Roundtable meetings, a proposal which has not yet been taken on board.

For now, while many States remain reluctant to engage in formal, binding migration-related multilateral agreements, the GFMD remains an important and innovative platform for migration governance, for States, civil society, and other stakeholders alike.

These processes and forums have resulted in a wealth of outputs and recommendations, and have provided important opportunities for States to cautiously engage with what are often sensitive and controversial topics.

98 GFMD Website, “The GFMD Process.” Available from: <http://www.gfmd.org/process>

99 A. Betts, Background Paper: WMR 2010. Migration Governance: Alternative Futures. International Organization for Migration (2010). p.15.

100 Ibid.

However, they have also been critiqued for the non-binding nature of recommendations and outputs, the lack of attention in debates and discussions to power distribution in international migration politics, and the unwillingness of States to commit to a more formal, comprehensive and coherent multilateral migration governance framework.

### 3.3 Bilateral Governance

The State has traditionally been the main actor in migration governance, and in many ways, it remains the primary unit on which the majority of migration governance arrangements is based. While the very nature of international migration requires transnational cooperation in governance, States are often reluctant to cede even small degrees of sovereignty by entering into formal global or multilateral governance agreements regarding migration, an issue which can have significant implications and sensitivities in domestic politics. Many States have undertaken multiple initiatives at the national level towards the promotion of orderly, safe, regular and responsible mobility, but also, many important agreements have been made at the bilateral level.

The negotiation of bilateral agreements has numerous advantages for States in terms of their approaches to migration governance. For example, they can be more tailored to specific migration contexts, and they can be pursued with specific countries with which there is already a basis of shared experience and trust. Further, with fewer actors at the table, the terms and conditions of bilateral agreements can often be negotiated more quickly and easily than in a multilateral forum. However, for many of the same reasons, bilateral agreements can also present challenges to ambitions of longer-term regional or global approaches to migration governance, or promote only short-term or stop-gap solutions to urgent issues or crises of migration governance. Nonetheless, bilateral agreements continue to represent an important component of global migration governance arrangements. (See Case Studies 4 and 5.)

#### Case Study 4 EU-Turkey Refugee Deal

2015 saw more than a million migrants arriving in the European Union, with nearly 300,000 more arriving in the first 8 months of 2016.<sup>[101]</sup> The largest share of arrivals have been from conflict-torn Syria, followed by Afghanistan and Iraq, with thousands of others arriving from countries as diverse as Pakistan, Eritrea, Albania, Kosovo and Nigeria. These arrivals have raised significant political tensions across the EU. EU Member States have been faced with the paradox of having to meet the protection needs of these new arrivals in a way that upholds the EU's existing laws and policies and the human rights of migrants and asylum seekers, while facing growing domestic public frustration, anxiety and political risk. Further, tragedies such as the Paris attacks of November 2015, and the March 2016 bombings in Brussels, have heightened the security concerns of European states and citizens, further complicating what is already a sensitive and highly emotive political landscape.

On March 18, 2016, the 28 EU Heads of State announced an agreement with the government of Turkey, in the form of the “EU-Turkey Statement, commonly known as the “EU-Turkey refugee deal.” The agreement represented an attempt by EU Member States to stem the flows of migrants and asylum seekers travelling via smugglers across the Aegean Sea from Turkey to the Greece Islands, by allowing Greece to return to Turkey “all new irregular migrants” arriving after March 20, 2016.<sup>[102]</sup> In

101 UN News Centre. “Almost 300,000 migrants and refugees reached Europe over past 8 months – UN partner agency,” (September 13 2016). Available from: [http://www.un.org/apps/news/story.asp?NewsID=54909#.V\\_4V5kua3IU](http://www.un.org/apps/news/story.asp?NewsID=54909#.V_4V5kua3IU)

102 E. Collett, “Commentary: The Paradox of the EU-Turkey Refugee Deal.” Migration Policy Institute, (March 2016). Available from: <http://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>



return, the EU Members States agreed to increase the numbers of Syrian refugees residing in Turkey who could resettle in Europe (on the basis of one resettlement for every return), and to accelerate visa liberalization for nationals of Turkey for the EU's passport-free Schengen zone. EU Member States also pledged to enhance financial support for Turkey's refugee population, and to increase talks regarding Turkey's bid to join the EU.

The agreement, however, has proven a controversial one. Almost immediately, observers called into question both the feasibility of the agreement, as well as its legality.<sup>[103]</sup> The agreement has become even more controversial in the wake of an attempted coup d'état in Turkey on July 15, 2016. A September 2016 progress report by the European Commission states that despite challenging circumstances, the EU-Turkey Statement has “delivered steady results.”<sup>[104]</sup> According to the progress report, the number of new arrivals to Greece from Turkey dropped from around 1,740 per day in the weeks before the implementation of the agreement, to 94 per day, while fatalities at sea in the Aegean have dropped from 270 in 2015, to 11 since the Statement.<sup>[105]</sup> The report cites this “substantial fall in both crossings and fatalities since the entry into force of the Statement” as a testament to its effective delivery.<sup>[106]</sup> It also notes that so far, 1,614 Syrian refugees have been resettled from Turkey to Europe through this agreement, while 578 irregular migrants have been returned from the Greek islands to Turkey.<sup>[107]</sup>

However, also in September, the New York Times reported that the deal seemed “to be on the verge of collapse,” with the numbers of Syrians and others leaving Turkey for Greece growing rapidly once again.<sup>[108]</sup> Tensions are also mounting building in relation to as-yet unfulfilled components of the agreement, particularly around visa liberalization for Turkish nationals.<sup>[109]</sup> The EU-Turkey Statement continues to highlight critical issues around the rights and protections of large, mixed movements of migrants, many of whom are fleeing various forms of crisis in their countries of origin.

## Case Study 5

### Improving Access to Information for Safer Migration in Bangladesh and Malaysia: the Government to Government (G2G) and Access to Information (a2i) Initiatives

Migrant labour has long been an important feature of the economies of South East Asia. The movement of migrant workers from Bangladesh to Malaysia is one such labour flow, particularly to access work on Malaysia's extensive palm oil plantations. In 2006, following a ten year suspension of recruitment, the government of Malaysia once again began to recruit Bangladeshi workers, and between 2007 and 2008, nearly 405,000 Bangladeshis were estimated to be working in Malaysia.<sup>[110]</sup> However, with little planning or coordination, many Bangladeshi workers were vulnerable to unethical and abusive recruiting practices from private recruitment agencies, leading to high fees, a higher risk of

103 Ibid.

104 European Commission. “Managing the Refugee Crisis: EU-Turkey Statement: Progress Report September 2016” Available from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160928/factsheet\\_implementation\\_of\\_the\\_eu-turkey\\_statement\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160928/factsheet_implementation_of_the_eu-turkey_statement_en.pdf)

105 Ibid.

106 Ibid.

107 Ibid.

108 C. Yenginsu, “Refugees Pour Out of Turkey Once More as Deal With Europe Falts.” New York Times, (14 September 2016). Available from: [http://www.nytimes.com/2016/09/15/world/europe/turkey-syria-refugees-eu.html?\\_r=0](http://www.nytimes.com/2016/09/15/world/europe/turkey-syria-refugees-eu.html?_r=0)

109 Ibid.

110 S. Roy, “G2G Migration: Bringing Transparency Through UISCs,” CTC Magazine, 01(2), (Jan-March 2013).



exploitation, the potential of arriving in Malaysia to no job (or a job but no pay), and the potential for debt bondage. In 2009, Malaysia suspended the recruitment of Bangladeshi workers.

This changed again on 26 November 2012, with the signing of a Memorandum of Understanding (MOU) between the governments of Bangladesh and Malaysia to launch the new Government to Government (G2G) mechanism. The objective of the MOU was to agree on the recruitment process of workers from Bangladesh to Malaysia through a G2G mechanism, which would mean bypassing private recruitment agencies, requiring government in both countries to handle the selection and placement of workers.<sup>[111]</sup> Under the mechanism, individual Malaysian employers submit their demands to the Malaysian Committee on Application of Bangladesh Workers, while employee selection is conducted from a job register of workers supplied by the government of Bangladesh.<sup>[112]</sup>

To help facilitate the registration process for aspiring migrants, the Government of Bangladesh drew on the Access to Information (a2i) Programme, housed at the Prime Minister's Office with support from UNDP and USAID. The a2i programme started in 2007 with the objectives of increasing transparency, improving governance and public services and reducing inefficiencies in their delivery in terms of time, cost and the number of visits associated with obtaining government services in underserved communities across Bangladesh.<sup>[113]</sup> As part of the programme, in 2010, the government of Bangladesh established Union Information and Service Centres (UISCs) in 4,516 Union Parashads (the lowest unit of government in Bangladesh) across the country, as part of an initiative to provide accurate, reliable information and e-government services to the rural populations of the country. In January 2013, the a2i programme facilitated the registration of would-be migrants for the G2G programme through the UISCs. This decentralized, technology-based system meant that rural migrants were given the opportunity to register on the G2G database without having to contend with high transport costs, accommodation costs, or other liabilities. Nearly 1.4 million people registered through the UISCs in January 2013. Of these, workers chosen for the G2G programme were selected by a lottery system.

While the a2i programme demonstrates promise, an independent assessment of the overall G2G agreement published in 2016 found that one of the challenges faced by the programme was that the response from Bangladeshi people hoping to migrate for work through the system “far exceeded Malaysian employers’ anticipated demand for workers.”<sup>[114]</sup> By June 10, 2015, for example, only 7,616 Bangladeshi workers had started work in Malaysia, representing less than one per cent of the number of workers who had registered.<sup>[115]</sup> Thus, some have critiqued the programme for setting up unrealistic expectations among those hoping to benefit from it. Others have suggested that the G2G agreement created expectations among Bangladeshi would-be migrants about the potential for work in Malaysia and once they were not able to travel under the scheme, they instead attempted to reach Malaysia by boat, contributing to the Andaman Sea Crisis of 2015 where many thousands of migrants were stranded in the Bay of Bengal and Andaman Sea. The programme also met with some substantial opposition from private recruitment agencies, and those who believe that the private sector could facilitate higher numbers of migrant workers.

For those who were selected, the independent assessment highlights that the programme achieved a drastic reduction of the recorded migration costs by about 8-10 times, from US\$3,000 - \$4,000 charged by private recruiters, to about US\$400, for those recruited through G2G, according to estimates

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111 P. Wickramasekara, “Review of the government to government (G-2-G) mechanism for the employment of Bangladeshi workers in the Malaysian plantation sector: a report prepared for the International Labour Organization (ILO),” Global Migration Policy Associates (GMPA), Dhaka and Bangkok, (2016). p.1.

112 Ibid., p.1.

113 Innovation Brief: Access to Information (a2i). Prime Minister's Office. Government of Bangladesh. Available from: <http://www.a2i.pmo.gov.bd/wp-content/uploads/2016/10/A2i-Final-.pdf?autoplay=1>

114 Ibid., p.xiv

115 Ibid., p.xiv

from Malaysian government officials.<sup>[116]</sup> While this has the potential to reduce the associated costs of migration, again, informal sources suggest that recruitment companies still find ways to get around the requirements and pass on costs to migrant workers in creative ways, a practice which causes ongoing challenges.

The lower-than-anticipated numbers of migration opportunities through G2G, combined with ongoing tragedies associated with human smuggling and trafficking of Bangladeshi people, put pressure on the Government of Bangladesh to negotiate and implement changes to the system.<sup>[117]</sup> In mid-2015, negotiations began for a new “G2G Plus” scheme, with more involvement from the private sector, culminating in a February 2016 announcement that the new agreement would allow for the labour migration of 1.5 million Bangladeshi men and women between 2016 and 2019, for work opportunities in the service, manufacturing and construction sectors as well as the plantation sector.<sup>[118]</sup> Almost immediately following this announcement, however, authorities in Malaysia announced a freeze on migrant labour inflows, until a government review on foreign worker programmes could be conducted. In May 2016, Malaysia’s ban on foreign workers was lifted in four sectors, including manufacturing, construction, and in the plantation and furniture-making industries. This case study illustrates the complexity of negotiating bilateral agreements and the potential to create unintended impacts for prospective migrants.

### 3.4 Regional Governance

In recent years, States have also increasingly turned to regional forums as a way to address issues of migration governance cooperatively.

Regional Economic Communities (RECs) such as the Southern African Development Community (SADC), the Economic Community of West African States (ECOWAS), the Association of Southeast Asian Nations (ASEAN), the African, Caribbean and Pacific Group of States (ACP) and Mercusor, amongst others, are all engaged to various degrees in issues of migration governance, particularly given the relationship between the processes of regional economic integration and labour migration.

Further to this, State-led Regional Consultative Processes (RCPs), which bring together representatives from States, international organizations, and sometimes NGOs for non-binding and informal dialogue around migration issues, now function in many parts of the world.<sup>[119]</sup> Originally, the focus of many RCPs was migration management and control, but as Crush notes, issues of migration and development, have increasingly come onto their agendas.<sup>[120]</sup> Importantly, there are also regular global meetings of the Chairs and Secretariat of RCPs, to allow for the exchange of information, practices and dialogue across regions.

As with State-led non-binding processes and forums at the global level, these RCPs continue to make a significant contribution to the landscape of global migration governance. However, they also face some similar critiques, with their non-binding and informal nature contributing to both their relative strengths and shortcomings (see Case Study 6).

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116 Ibid., p.17

117 Ibid., p.19

118 H.J. Tusher, “Bangladesh okays ‘G2G plus’ deal to send 1.5m workers to Malaysia,” The Daily Star, Bangladesh, (9 February 2016). Available from: <http://asianews.network/content/bangladesh-okays-%E2%80%98g2g-plus%E2%80%99-deal-send-15m-workers-malaysia-9246>

119 C. Thouez and F. Channac, “Shaping international migration policy: The role of regional consultative processes,” West European Politics, 29(2), (2006).

120 J. Crush, “The EU-ACP migration and development relationship,” Migration and Development, 4(1), (2015).

## Case Study 6

### Regional Migration Governance: The Bali Process

With one of the world's largest and oldest refugee populations, the Asia-Pacific region continues to be characterised by a fragile protection environment.<sup>[121]</sup> The Asia-Pacific region is home to 7.7 million “people of concern” to UNHCR, including 3.5 million refugees (the majority of whom originate from Afghanistan and Myanmar), 1.9 million internally displaced people, and 1.4 million stateless people.<sup>[122]</sup>

Co-chaired by Indonesia and Australia, the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) has more than 48 members, including UNHCR, IOM and the United Nations Office of Drugs and Crime (UNODC), along with a number of observer countries and international agencies.<sup>[123]</sup> It was launched in 2002 as a regional state-led policy forum for policy dialogue, information-sharing, and the facilitation of practical cooperation through the work of its Regional Support Office in Bangkok. The establishment of the Bali Process has been particularly important for a region in which few countries have signed the 1951 Convention relating to the Status of Refugees, creating a forum for source, transit and destination countries in the region to come together to discuss their respective roles and responsibilities around the forced movement of people.<sup>[124]</sup> The Bali Process has also played an important role in the criminalization of people smuggling, enabling law enforcement agencies to work in tandem around the exchange of information and best practices.<sup>[125]</sup>

However, the Bali Process has also met with some significant criticisms. Some observers have noted that while the inclusive nature of the Bali Process has given governments the confidence to participate, its large size and the diversity of its membership have hindered direct action, in relation to crises or major displacement incidents.<sup>[126]</sup> Many observers, for example, have critiqued the Bali Process for its ineffective response to the Andaman Sea Crisis in 2015, which threw the shortcomings of the forum into sharp relief.<sup>[127]</sup> More broadly, like other RCPs, the Bali Process has also been critiqued for its informal nature, its focus on national security, and its lack of coordination with other RCPs.<sup>[128]</sup>

There have, however, been some important steps made in response to these critiques. In March 2016, the Bali Process Ministers met for the first time since 2013, and agreed upon the need for a formal review of the Andaman Sea Crisis to establish lessons learned, and to work towards the implementation of improvements in areas such as contingency planning, and preparedness around potential large influxes of people.<sup>[129]</sup> A new regional response mechanism has also been created,

121 UNHCR (2012a) ‘Regional Update: Asia and the Pacific’, Geneva: UNHCR. Available from: <http://reliefweb.int/sites/reliefweb.int/files/resources/506010199.pdf>.

122 UNHCR website, “Asia and the Pacific,” <http://www.unhcr.org/asia-and-the-pacific.html>

123 The Bali Process, “About the Bali Process,” Available from: <http://www.baliprocess.net/>

124 P. Hughes, T. McLeod, S. Petcharamesree, S. Wong and T. N. Pudjiastuti, “The Bali Process can do a lot more to respond to forced migration in our region,” (22 March 2016). Available from: <http://regnet.anu.edu.au/news-events/news/6391/bali-process-can-do-lot-more-respond-forced-migration-our-region>

125 Ibid.

126 Ibid.

127 K. Koser, “Reforming the international protection regime: Responsibilities, roles and policy options for Australia,” Lowry Institute for International Policy, (August 2016). p.9 Available from: <http://www.lowryinstitute.org/publications/reforming-international-protection-regime-responsibilities-roles-and-policy-options-australia>

128 Koser, 2016, p.9.

129 T. McLeod, P. Hughes, S. Petcharamesree, S. Wong “The Andaman Sea refugee crisis a year on: what happened and how did the region respond?” (31 May 2016). Available from: <http://regnet.anu.edu.au/news-events/news/6471/andaman-sea-refugee-crisis-year-what-happened-and-how-did-region-respond>

authorizing senior officials to consult and convene meetings with affected and interested countries, in response to issues of irregular migration or emergency situations.<sup>[130]</sup>

### 3.5 Urban and Municipal Governance

International cooperation, dialogue and policy forums around migration have largely taken place at the bilateral, regional and global levels. However, migration governance necessarily involves a much broader range of actors and institutions, and there has been a growing recognition of the pivotal role that local and urban authorities play in the governance of migration, and particularly in facilitating the conditions that promote the potential contributions of migration for development.

Cities are already home to over half of the global population, a share that is expected to rise steadily in coming years. While migration is often conceptualized as a move from one country to another, in reality, the movement of people also often entails moving from one major urban centre to another. Because of this, cities are often at the forefront of addressing many of the immediate, day-to-day challenges that migration can present, including issues such as housing, service provision, employment access, and the facilitation of integration of migrants at the local level. Local and urban authorities are also well-positioned to make important contributions to the resettlement, reintegration and engagement of returning migrants and diaspora communities. Further, meeting the migration-related goals and targets in the new 2030 Sustainable Development Agenda will require the input, cooperation and commitment of sub-national levels of government.

Around the world, local and urban authorities, researchers, and other stakeholders are engaged in finding ways to meet these challenges. The International Metropolis Project,<sup>[131]</sup> for example, is an international network of researchers, policy makers and community groups engaged in issues of migration and diversity, while the Cities of Migration<sup>[132]</sup> project seeks to improve local integration practice in major immigrant receiving cities around the world, through learning exchange and information sharing.

One important and recently established city-led initiative is The Mayoral Forum on Mobility, Migration, and Development, supported by the United Nations Institute for Training and Research (UNITA), with the IOM as a partner and co-sponsor. Launched in Barcelona in 2014, the Mayoral Forum aims to advance migration and development-related dialogue and cooperation amongst the world's municipal leaders, regional authorities and mayors. Such a platform creates new opportunities for local and urban authorities to share information around good practices and challenges, and also highlights, on a global stage, the important position of this level of governance in the facilitation of migration for development.

The UNDP's Joint Migration and Development Initiative (JMDI) is another current international programme which has recognized the importance of decentralized levels of governance in migration and development interventions. Five other agencies (IOM, ILO, UNHCR, UNFPA and UN Women) contribute their knowledge, expertise and networks to the JMDI, which has found in its own work that the most successful and sustainable migration and development interventions they have identified "are those with strong anchorage with the local governments in countries of origin and destination...."<sup>[133]</sup> One JMDI project in the Bicol region of the Philippines provides a useful example of how cities can represent an important starting point for the implementation of policies and practices which can then be shared with other local authorities, scaled up and integrated across regional and national levels of governance. (See Promising Practice 6).

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130 Ibid.

131 See <http://carleton.ca/metropolis/>

132 See <http://citiesofmigration.ca/>

133 See: <http://www.migration4development.org/en/content/about-jmdi>

## **Promising Practice 6: The Joint Migration and Development Initiative's Project Bicol, Philippines: "Mainstreaming migration and development in the governance of local authorities in the Bicol Region"<sup>[134]</sup>**

While urban centres in the Philippines are experiencing major demographic growth due to domestic rural-urban migration, given its challenging socio-economic context, the Philippines has also become a significant international migrant-sending country. The Bicol region, with an estimated population of around six million, sends some of the highest numbers of overseas Filipinos (OFs) in the country. As a region, it is comprised of six provincial governments, fifteen local government units (LGUs), seven cities, three major towns and 107 municipalities.

Given the economic importance of migration to the region, and recognizing the pivotal role of local levels of governance in advancing policies and practices that can enhance the potential of migration to contribute to development, the government of the city of Naga, with technical assistance from the IOM, pioneered the mainstreaming of migration and development issues and concerns into its ten-year "Comprehensive Development Plan, 2011-20." Building on this work, from 2014-2016 the Joint Migration and Development Initiative<sup>[135]</sup> (JMDI) undertook a project entitled, "Mainstreaming migration and development into the governance of local authorities of the Bicol Region." The main objective of the project was to localize and mainstream migration and development issues and projects into the development policies of key provinces, cities and municipalities in the Bicol Region.

The project has raised awareness among Bicol local governments on the strategic value of migration and development, and fostered the capacity of selected government units in mainstreaming migration and development into their local development plans. It achieved this through the organization of a regional forum on migration and development, as well as three capacity building activities and a series of mentoring and coaching session for 16 government units.

To further foster the mainstreaming of migration into local development planning, an incentivising programme was established, through which the five top performing local government units were selected for additional technical and funding support primarily in preparing and promoting investment and entrepreneurial activities for migrants and families.

Another key success factor to the mainstreaming efforts was the multi-stakeholder approach that brought all key actors actively involved together through the creation of technical working groups (TWGs) across the various municipalities. TWGs are composed of representatives of public and private institutions such as local governments, civil society organizations, academic institutions, religious organizations and families of migrants. The participants in the TWGs assumed responsibility for and commitment to incorporating and promoting migration and development in their local investment or development plans.

The project has also been able to establish and institutionalise local structures and mechanisms promoting migration and development. Subsequent to the trainings, 10 LGUs have passed ordinances or executive orders and created a Migration and Development council or working group. Furthermore, one Regional Committee on migration and development (CMD) was created (with 14 regional agencies represented, 10 provinces and cities, and six migrant organizations).

134 This case study is sourced from: Joint Migration and Development Initiative. 2016. "JMDI contribution to UNDP Guidance Note on Supporting Cities and Municipalities to Adapt to Challenges Caused by Migration and Displacement."

135 JMDI began in 2012, as a joint initiative between the United Nations, the European Commission and the Swiss Agency for Development and Cooperation. JMDI focuses on making migration work for development, and establishing a comprehensive approach to migration at the local level.

Another important manner in which migration was mainstreamed into local development planning was through the establishment of local projects and services. One functional Migrant Resource Centre in Naga was established, and six organizations for migrant or their families have been established. Furthermore, 10 overseas Filipino workers' desks were established or strengthened with appropriate funding from the local government unit in question. These Migrants Resource Centres in the Bicol Region act as one-stop hubs for services and projects for overseas Filipinos and their families, helping to improve the provision of social and economic services for these groups.

Coordinating this at the regional level is Naga City, with the help of the National Economic and Development Authority's regional office in Bicol. It does so through a Migration and Development Council to provide capacity building and technical support at the local level to municipalities and other local actors. At the national level, Naga City and the top performing LGUs in Bicol have partnered with the state through the Commission for Filipinos Overseas, Department of Labor and Employment, Overseas Workers and Welfare Administration, National Reintegration Center for Overseas Filipino Workers, and the National Economic and Development Authority, among others, to foster coordination, dialogue and mutual knowledge sharing and support between the local and national levels. This has allowed the migration management process to be localized whilst remaining aligned and supported at the national level.

Previously in Bicol, despite the importance of migration, none of the regional or local plans included migration and development as a central theme or objective, nor was there any specific entity within LGUs to address issues of migration and development. The work of the Municipality of Naga City is a promising example of vertical (local to national) as well as horizontal (local to local) coordination efforts between all levels of governance for enhanced migration management for development.

Despite the success and potential of migration governance at local and urban levels, in many respects, migration policy is still deeply attached to the national state level, despite growing initiatives by local governments to address the social and economic challenges that arise from immigration and integration.<sup>[136]</sup> Further, tensions can be created between different levels of governance when local initiatives do not align well with national imperatives or functions, such as ongoing controversies regarding "Sanctuary Cities" in the United States, Canada, and the United Kingdom, a broad term for some cities in which local governments implement policies that offer various degrees of protection to irregular migrants around detection, detention and deportation. Some cities, such as Vancouver, Canada, have stopped short of declaring themselves a Sanctuary City, but are nonetheless taking steps to protect migrants "with uncertain or no immigration status." (See Emerging Practice 2)

### **Emerging Practice 2: Cities and Migration Governance: Migrants' "Access to city services without fear" in Vancouver, Canada**

In April 2016, the City of Vancouver adopted a new "Access to City Services Without Fear" (ACSWF) policy, designed "to support access to City services by Vancouver residents with uncertain or no immigration status and who fear detention, psychological and physical harm, or deportation, when accessing services."<sup>[137]</sup> Recognizing immigration status as a social determinant of health, the ACSWF policy's overall aim is to improve the health and wellbeing of residents with uncertain or

136 T. Juzwiak, E. McGregor and M. Siegel, "Migrant and Refugee Integration in Global Cities: The Role of Cities and Businesses," The Hague Process on Refugees and Migrants (2014). p.x

137 For the policy, see: <http://council.vancouver.ca/20160406/documents/pspc3.pdf>



no immigration status. The policy highlights that fear of harm, detention and deportation prevents people from seeking the support they need from service groups and government agencies of all types. Thus, the ACSWF policy enables Vancouver residents to access municipal services, without fear that the City of Vancouver will ask for or provide information about their immigration status to other government institutions, unless required by law. It applies to City services such as fire and rescue, as well as community services such as homeless outreach shelters, non-market housing, utilities and public works, as well as City information services. However, the policy cannot apply to civic services such as those provided by police, parks and libraries,<sup>[138]</sup> which are governed by individual Boards in Vancouver, nor can it apply to those activities that fall under the jurisdiction of Canada's federal government, including immigration policies, regulations, and enforcement.

Leading up to the adoption of the policy, the Mayor's Working Group on Immigration in the City of Vancouver, Canada, had convened a community workshop in 2014 with over thirty organizations, concerning the challenges facing residents with uncertain or no immigration status, with the aim of identifying actions or initiatives that the City of Vancouver could undertake.<sup>[139]</sup> Further engagements and information gathering took place in 2015, inviting the sharing of current experiences and practices from external stakeholders such as the Vancouver Police Department, the Vancouver Board of Parks and Recreation, the Vancouver Public Library, the Vancouver School Board and Vancouver Coastal Health. The push for such a policy in Vancouver came after the death in 2013 of a Mexican national living in Vancouver, who had been stopped by TransLink (public transit) police for a transit violation, and later hung herself in a Canada Border Services Agency holding cell at Vancouver International Airport, while awaiting deportation.<sup>[140]</sup>

Recognizing the limitations of the scope of municipal policies,<sup>[141]</sup> the City of Vancouver opted for the language of "Access Without Fear" rather than endorsing the concept of a "Sanctuary City," which has been used in two other Canadian cities, Toronto and Hamilton, and in a host of American cities such as Portland, Seattle, San Francisco and Chicago. Although there is no formal definition of a "Sanctuary City," the concept generally refers to policies and practices adopted at municipal levels, through which municipal resources are not allowed to be used to enforce national immigration laws (for example, by disallowing municipal employees from enquiring about a resident's immigration status, or linking that status to the provision of services). Such policies are not without criticism and controversy, particularly from those who perceive the policies to offer unwarranted protection and rights to irregular or undocumented migrants. These policies may also create significant tensions between local and national levels of governance. However, such initiatives also highlight the critical, and often over-looked, role that cities and urban governance plays fostering the linkages between migration and development.

### 3.6 Civil Society and other Non-state Actors

Migration governance necessarily consists of more than the policies and practices of different levels of governments. Indeed, one of the hallmarks of "global governance" has been the increasing influence and engagement of a wide range of non-state actors across a host of global issues, including issues such as environmental protection, climate change, health and migration.

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138 The Vancouver Public Library approved an aligned policy on April 27, 2016, called "Access to Vancouver Public Library Without Fear."

139 For the policy, see: <http://council.vancouver.ca/20160406/documents/pspc3.pdf>

140 M. Robinson, "City of Vancouver grants access without fear," *The Vancouver Sun*, (5 April 2016). Available from: <http://vancouversun.com/news/local-news/vancouver-considers-access-without-fear>

141 T. Lupick, "Vancouver city council to receive 'sanctuary city' policies aimed to ensure access without fear," *The Georgia Straight*, (31 March 2016). Available from: <http://www.straight.com/news/669506/vancouver-city-council-receive-sanctuary-city-policies-aimed-ensure-access-without-fear>



NGOs and civil society organizations, for example, can play a critical role in generating research, partnering with government authorities, providing direct services, advocacy, enhancing government accountability and transparency, helping to shape global norms, and influencing policy across different spheres of governance.

Importantly, NGOs and other civil society organizations may also have the capacity to act and respond to emergencies or crises more quickly and flexibly than states sometimes can. The numbers and diversity of civil society actors contribute to challenges of determining how best to effectively involve and integrate civil society organizations into the various migration-related global policy forums and initiatives that currently exist, particularly at the global and regional levels. Further, the agendas and interests of civil society organizations may be, at times, considerably different than those of States and policymakers. However, examples abound from around the world of NGOs and civil society organizations actively engaged in effectively promoting the interests and well-being of migrants, and advancing global agendas of protection, rights, and development (see Good Practice 2).

### **Good Practice 2: Access to Health Care for Irregular Migrants: The Health Centre for Undocumented Migrants, Oslo, Norway**

The issue of access to health care for migrants, particularly for irregular migrants, is a sensitive topic for many governments and citizens. The provision for the “right to health” is widely recognised across a range of international human law instruments, however in practice, the health needs of migrants often go unmet.

In some instances, civil society organizations step in to try and address these gaps. One example of this is the Health Centre for Undocumented Migrants, in Oslo, Norway. The Health Centre is owned, managed and operated by the Church City Mission in Oslo and the Norwegian Red Cross/ Oslo Red Cross, offering health care information and services to people without legal grounds for residence in Norway.<sup>[142]</sup> Established in 2009, the Health Centre opens two days a week for drop-in consultations, offering referrals to other institutions and specialist services, where possible, either through volunteers or the public health service.<sup>[143]</sup> The Health Centre has treated over 3300 patients since its opening, with over 15,000 consultations, and has more than 175 active volunteers (including doctors, psychologists, nurses, physiotherapists, midwives and social workers, along with around 40 volunteer telephone interpreters).<sup>[144]</sup>

While of critical importance to the individuals receiving care, the provision of health services for undocumented migrants by volunteers and civil society organizations is neither a long-term nor a sustainable solution to the issue. Indeed, the Health Centre for Undocumented Migrants itself expresses that its own goal is for the centre to become unnecessary so that it can be discontinued.<sup>[145]</sup> Rather, new sustainable and state-led approaches to health governance are needed that recognise and uphold migrants’ health rights, understanding that health, like migration, is an issue that transcends international borders and requires creative, cooperative governance solutions.

Academia, foundations, and the private sector are also often over-looked, yet critical players in migration processes and governance efforts, both formal and irregular. Like civil society organizations and NGOs, academia can play an important role in shaping discourse and global norms around migration, particularly (though not exclusively) through research and dissemination. Foundations also contribute to governance through the creation of funding opportunities and dispersal of resources (both to researchers and civil

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142 “Health Centre for Undocumented Migrants” Available from: <https://www.lhl.no/en/lhl-international/partners/partners/health-centre-for-undocumented-migrants/>

143 Ibid.

144 Ibid.

145 Ibid.

society organizations) that target specific aspects or dynamics of migration. As with other major arenas of global governance, the private sector also plays a pivotal role in shaping issues of migration governance, particularly through labour demand and recruitment practices. However, private sector actors can also be important partners in interventions related to issues as diverse as migrant integration, protection, and the lowering of remittance costs.

One of the five transformative shifts identified in the new 2030 Sustainable Development Agenda is the necessity of forging a “new global partnership,” which calls for a new spirit of solidarity, cooperation, and mutual accountability to underpin the post-2015 agenda. As part of this, the Agenda calls for the inclusion of civil society organizations, multilateral institutions, local and national governments, the scientific and academic community, businesses, and private philanthropy. Taken together, these are the actors that make up the landscape of migration governance. Given the complexity of migration, and the urgency of finding long-term solutions for the many challenges it presents, new forms of cooperation, collaboration, and partnership have never been more necessary.

# 4 CONCLUSIONS: FUTURE DIRECTIONS IN MIGRATION GOVERNANCE

Currently, States throughout the world are experiencing the practical challenges of balancing their obligations and aspirations regarding the protection of migrants, including asylum seekers and refugees, with their own national priorities, security concerns, and development agendas. Migration raises highly sensitive issues of identity, ethnicity, culture, security, religion and belonging, and large flows of people, in particular, have the potential to heighten divisive domestic political tensions, making it a particularly challenging arena of governance. At the same time, migration is a global reality, being driven by a diverse range of factors, and there is a wide recognition that, when effectively facilitated, migration has significant potential to make positive contributions to economic and human development, both in host countries and countries of origin.

In support of **Roundtable 3.1**, the first section of this paper explored issues of migrants who do not meet the specific criteria of the existing international refugee protection regime, but who nonetheless have very real and often urgent protection needs, and are unable or unwilling to return to their countries of origin due to a range of other, existential threats to their lives. This includes those who may be leaving behind the impacts of long-term conflict, state instability or collapse, endemic poverty and deprivation, natural disaster, climate-induced environmental change, and the inability to access even basic human rights. This section presented a number of important case studies and initiatives currently underway internationally to begin to address these important protection gaps, and identified some of the ongoing challenges involved. From these, a number of key reflections and recommendations arise.

- **The Expansion of Protection Mechanisms for Migrants Experiencing Crisis:** The shifting and often mixed motivations of migrants requires States and policy makers to engage with new or expanded forms and models of protection. This could be, for example, through temporary protection mechanisms, expanded definitions of who qualifies as a “refugee”, the development of and adherence to soft-law frameworks and guidelines, or through new formal international legal commitments. States should actively work to ensure that all migrants in situations of crisis have their protection needs met, whether in countries of origin, transit, or destination.
- **Moving from the Global to the Local:** Regional bodies, States, sub-national levels of government, and civil society organizations should work collaboratively towards incorporating the outputs of global consultative processes such as the Nansen Initiative, the Sendai Framework, and the MICIC guidelines into coordinated policies and tangible practices.
- **Protection for Unaccompanied or Separated Migrant Children:** Adequate policies and processes are urgently needed to address the particular vulnerabilities and protection needs of children and unaccompanied or separated migrant minors. This work needs to be coordinated across different levels of government, in close cooperation with relevant non-state actors.
- **Securitized Approaches to Migration:** States should reconsider securitized approaches to migration governance, which often drive individuals into more dangerous routes and methods of migration, inadvertently fuel smuggling and trafficking networks, and compromise the protection needs of migrants in crisis. Similarly, States should consider alternatives, wherever possible, to practices of immigration detention.

The second section, in support of **Roundtable 3.2**, explored the various institutions, actors and modes of governance that together make up the landscape of global migration governance. This section offered an overview of some of the key agencies and institutions engaged at the international level, and addressed some of the challenges involved in governing migration at a global level. It also explored some of the strengths and limitations of bilateral governance for migration, and highlighted the often over-looked importance of local

and urban authorities, NGOs and civil society actors, as well as other non-state actors such as the private sector, academia and private philanthropy in the governance of migration and development. In particular, the initiatives and cases studies presented in this section have raised a number of key considerations and recommendations for those engaged in issues of migration governance.

- **Migration and the SDGs:** Regional bodies, States, sub-national levels of government and civil society organizations should work collaboratively towards defining and meeting the migration-related goals, targets and indicators of the 2030 Agenda for Sustainable Development. Greater attention should be paid to the role that cities and municipal authorities can play in effective migration governance.
- **Cooperation and Coordination:** The effective governance of migration requires cooperation and coordination across different levels of government, but it also requires effective engagement with other actors involved in migration governance, including civil society and NGOs, the private sector, foundations and academia. Issues of migration must also be integrated within and across all relevant departments and institutions of State, such as those responsible for health, housing, social services, policing, and labour.
- **Non-binding Consultative Processes - Finding a Balance:** Informal and non-binding consultative processes, at both the regional and global levels, have a critical role to play in advancing migration-related dialogue, creating and disseminating norms, setting minimum standards (for example, regarding issues of labour migration such as wages and working conditions) and raising the priority of migration-related issues. However, their non-binding nature also creates risks of non-compliance and inaction. The international community must work towards finding a balance between the informal and non-binding nature of these engagements, and the need for tangible action and accountability.
- **The Use of ICTs to Promote Safer Migration:** Those involved in migration governance should pay attention to the role that ICTs play in modern migration flows (both regular and irregular), and the ways in which ICTs can be used to improve migration governance. The creative and innovative uses of ICTs offers opportunities for new methods of data collection and analysis, to help address the ongoing dearth of adequate, reliable data regarding many aspects of migration. Better data can contribute to better migration governance decisions, and can assist in better meeting the protection needs of migrants. ICTs can also play an important role in facilitating safer, more equitable opportunities for migration.

The challenges of migration governance are complex and substantial. Yet, particularly with the inclusion of migration into the new 2030 Sustainable Development Agenda, there appears to be significant global energy to find new, innovative and creative ways of re-thinking our approaches to migration, towards an approach that protects the rights and well-being of all migrants, and helps unlock migration's significant potential to contribute to processes of development.

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