Overview of international, global, and regional policy instruments on migration governance

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Introduction

- Strengthening migration policy and governance, a key enabling element to address migration challenges and foster the role of migration on socioeconomic development.

- National patterns (socioeconomic factors, natural disasters, political factors, etc.) and international context affecting migration drivers as well as impacting on a country's migration policy and governance.

- Poor governance of migration alongside poverty, unemployment, inequality, environmental degradation, climate challenge and other challenges can constitute root causes for internal and international migration, accentuating migrants' vulnerability to human rights' violation, irregular migration, trafficking, smuggling of migrants, exploitation, violence, to name a few.

- Mismanaged or ill-managed migration accentuating migration-related challenges and socioeconomic challenges, including risks of irregular migration, trafficking and smuggling of migrants, rising anti-migrant sentiment.

Introduction

- Well-governed migration as a enabling factor for fostering the development contribution of migration (i.e., financial remittances, skills and knowledge transfer, employment and skills development, sociocultural exchanges, investment and trade opportunities). Well-managed migration as an enabler for shaping a positive narrative on migration and migrants in the origin and host country.

- Human rights-based approach essential to strengthen migration policy and governance on rights-based approach and align national laws, legislation, and policies with international human rights instruments related to migration.

- Protecting and promoting migrants' rights is keystone in the human rights-based approach to migration. Protect migrants' rights, ensure their wellbeing and socioeconomic inclusion and enhance their development contribution for the benefit of themselves and their families, and origin and host societies.

- **Objective:** provide an overview of some of the key international/global and regional instruments that are relevant to migration governance to increase understanding of the global/regional migration governance frameworks.

I. International/ global instruments on migration governance

1. United Nations System

- Universal Declaration of Human Rights – 1948

- Several international human rights instruments.

- Core international conventions related to migrants (specialized instrument dedicated to migrants: «International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families» (1990).

2. ILO International legal instruments

❑International Labor Standards (ILS) apply to both migrant and non-migrant workers.

I. International/ global instruments on migration governance

❑Following ILO Conventions specifically applicable to migrant workers:

• Migration for Employment Convention (No. 97; 1949, as amended), and the Migration for Employment Recommendation (No. 86; 1949, as amended)

• Migrant Workers (Supplementary Provisions) Convention (No. 143; 1975), and the Migrant Workers Recommendation (No. 151; 1975)

• Convention on Private Employment Agencies (No. 181; 1997)

Domestic Workers Convention (No. 189; 2011), and the Domestic Workers Recommendation (No. 201; 2011).

3. ILO Multilateral Framework on Labour Migration

An ILO international non-binding instrument related to labor migration governance.

I. International/ global instruments on migration governance

❑**UN Convention and ILO Conventions 97 and 143: core underpinnings of the international/ UN legal instruments related to migrants**

- The 1990 UN Convention drawing on the ILO Conventions 97 and 143; and both Conventions sharing the same principles and objectives and complimenting each other.

- The fundamental objectives of the UN Convention and ILO Conventions Nos. 97 and 143: ensure the protection of migrants' rights, the protection of migrants against discrimination, and a human rights-based governance of migration.

- The 1990 UN Convention: broader definition of migrant workers and more detailed provisions about fundamental rights of workers with irregular status.

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Other international conventions worth mentioning:
- UN Convention relating to the Status of Refugees (also known as Geneva Convention);
- United Nations Convention against Transnational Organized Crime and its supplementing Protocols (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Protocol against the Smuggling of Migrants by Land, Sea and Air; Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition).
- UN Convention on the Rights of the Child;
- UN Convention on Statelessness.

I. International/ global instruments on migration governance

❏ **UN Agenda 2030 and its Sustainable Development Goals (SDGs)**

- Nexus between migration and sustainable development.

- Fundamental need to "facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies" as highlighted in the UN SDG stand-alone target 10.7.

- Migration a core dimension to achieve SDGs and the commitment to leave no one behind.

- Migration as a catalyst for sustainable development for the benefit of

I. International/ global instruments on migration governance

of migrants and their communities and origin, transit, and destination countries.

- Ensure a comprehensive, well-designed, coordinated, data-driven, monitored, and assessed migration and development policies and interventions to maximize the benefits of migration and minimize its negatives.

- Ensure effective mainstreaming of migration into overall and sectoral development policy, planning, and programs.

- Promote a whole of government approach and a whole-of-society approach to achieve the SDGs, including migration-related SDGs.

I. International/ global instruments on migration governance

The UN Global Compact for Safe, Orderly and Regular Migration and its 23 objectives

- A groundbreaking instrument reaffirming the importance of international migration on the global agenda

- Follows the New York Declaration on Refugees and Migrants adopted by 193 United Nations Member States on September 19, 2016.

- A culmination of several consultations that resulted in the signature on December 20, 2018 of the Global Compact document by several Member States and its adoption by the United Nations General Assembly on December 19.

- Covers 23 Objectives and targets, and action plans to strengthen global governance on migration.

- A fundamental tool for the achievement of the Sustainable Development Goals (especially those relating to migration per the United Nations 2030 Agenda.

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Some of the key characteristics of the GCIM:

- Non-binding instrument

- Intergovernmental agreement with the aim of strengthening cooperation in international migration, reiterating existing principles and obligations based on international law.

- Rooted in the United Nations 2030 Agenda on Sustainable Development.

- One of the primary objectives among others: maximizing the potential of migration for achieving the Sustainable Development Goals

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- Major turning point in international cooperation on migration, with the aim of improving the living conditions of approximately 250 million migrants worldwide, especially in a context of high politicization of and increasing complexity of migration issues.

By adopting the Global Compact, recognition by the States of:

- the ancient and universal character of migration and its significant role in contemporary and future life.

- the need to strengthen international migration cooperation and have a common approach and shared understanding of migration to address the pressing migration global problems while maximizing the gains associated with migration for the benefit of all society, including migrants and their communities.

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- The need to strengthen their obligations under international law, including the principles of "non-regression" and non-discrimination.

- The need to commit to ensuring the respect, protection, and safeguarding of the human rights of migrants, without any distinction

- The need to commit to working together to respond to the risks faced by individuals and communities in the origin, transit, and destination countries.

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Some key dates in the process of elaboration of the GCM:

- **19 September 2016**: Adoption by the United Nations General Assembly of the New York Declaration on Refugees and Migrants

- **April 2017-July 2018**: Thematic sessions, regional consultations, stakeholder consultations.

- **December 2017**: Stocktaking Conference in Puerto Vallarta

- **February July 2018**: Intergovernmental negotiations

- **10-11 December 2018**: Intergovernmental Conference to adopt the GCM.

- **2019**: Start of the implementation of the Global Compact.

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Visions and guiding principles of the Global Compact

Visions: Common understanding; shared responsibilities; unity of purpose

Guiding principles: People-centred; international cooperation; national sovereignty; rule of law and due process; human rights; gender-responsive; child-sensitive; whole-of-government approach; and whole-of-society approach.

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23 Objectives of the GCM:

(1) Collect and utilize accurate and disaggregated data as a basis for evidence-based policies.

(2) Minimize the adverse drivers and structural factors that compel people to leave their country of origin.

(3) Provide accurate and timely information at all stages of migration

(4) Ensure that all migrants have proof of legal identity and adequate documentation.

(5) Enhance availability and flexibility of pathways for regular migration.

(6) Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work.

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(7) Address and reduce vulnerabilities in migration.

(8) Save lives and establish coordinated international efforts on missing migrants.

(9) Strengthen the transnational response to smuggling of migrants.

(10) Prevent, combat, and eradicate trafficking in persons in the context of international migration.

(11) Manage borders in an integrated, secure, and coordinated manner.

(12) Strengthen certainty and predictability in migration procedures for appropriate screening, assessment, and referral.

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(13) Use migration detention only as a measure of last resort and work towards alternatives.

(14) Enhance consular protection, assistance and cooperation throughout the migration cycle.

(15) Provide access to basic services for migrants.

(16) Empower migrants and societies to realize full inclusion and social cohesion.

(17) Eliminate all forms of discrimination and promote evidence-based public discourse to

shape perceptions of migration.

(18) Invest in skills development and facilitate mutual recognition of skills, qualifications and

I. International/ global instruments on migration governance

competences

(19) Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries.

(20) Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants.

(21) Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration.

(22) Establish mechanisms for the portability of social security entitlements and earned Benefits.

(23) Strengthen international cooperation and global partnerships for safe, orderly and regular migration.

I. International/ global instruments on migration governance

❑ **IOM Migration Governance Framework**

- IOM MiGoF adopted by IOM Member States, aims to foster migration governance at national, global, and regional levels in line with international human rights standards and through a comprehensive, balanced, and results-based approach.

- 3 Core objectives:

 "1. Advance the socioeconomic wellbeing of migrants and society.

2. Effectively address the mobility dimensions of crises.

3. Ensure that migration takes place in a safe, orderly, and dignified manner."

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- 3 core principles:

"1. Adherence to international standards and fulfillment of migrants' rights.

2. Formulating policy using evidence and a "whole-of-government" approach.

3. Engagement with partners to address migration and related issues."

- MiGoF in line with GCM and other international instruments related to migration.

II. Continental instruments on migration governance

- The revised African Union Migration Policy Framework for Africa.
- The African Common Position on Migration and Development.
- The Ouagadougou Action Plan to Combat Trafficking.
- The African Union passport and the African Union Free Movement of Persons (FMP) Protocol.
- The African Continental Free Trade Area.
- The A.U. Agenda 2063.
- Organization of African Union Refugee Convention (adopted in 1969) African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

III. Regional instruments related to migration: the case of ECOWAS and SADC

ECOWAS regional instruments related to migration (inter alia)

• ECOWAS - ECOWAS Gender and Migration Framework and Plan of Action (2015-2020).

• ECOWAS - ECOWAS Common Approach on Migration.

• ECOWAS - 1979 - ECOWAS' Protocol on Free Movement of Persons, Right of Residence and Establishment.

• ECOWAS - 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment.

- 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence).
- 1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment.
- 1990 Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right to Establishment).

Regional instruments related to migration: the case of ECOWAS and SADC

- ECOWAS - The ECOWAS Passport.

- ECOWAS - The ECOWAS Brown Card.

- ECOWAS - The ECOWAS travel certificate.

- ECOWAS - The ECOWAS (1982) Protocol A/P.3/5/82 relating to the Definition of Community Citizen.

- ECOWAS. ECOWAS 1999. An ECOWAS Compendium on Movement, Right of Residence and Establishment. Abuja: ECOWAS Secretariat.

- ECOWAS (2007), The Memorandum on the Equality of Treatment for Refugees with Other Citizens of Member States of ECOWAS in the Exercise of Free Movement, Right of Residence and Establishment. Lomé: ECOWAS Commission.

- ECOWAS - ECOWAS Humanitarian Policy.

2. SADC Regional Instruments on Migration Governance (inter alia)

SADC instruments related to migration (inter alia)

- The 2005 SADC Protocol on the Facilitation of Movement of Persons.

- 2014 SADC Draft Labour Migration Policy Framework.

- SADC Action Plan on Labour Migration 2013–15, renewed for 2016-

- 2019 and, also 2020-2025.

- Harmonised SADC Regional Strategic Plan on Combating Illegal Migration, Smuggling of Migrants and Trafficking in Persons.

- 10-Year SADC Strategic Plan of Action on Combating Trafficking in Persons, especially Women and Children (2009-2019).

- SADC Code on Social Security, adopted in 2008 (SADC 2008).

- 2014 SADC Protocol on Employment and Labour.

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- AU - The African Continental Free Trade Area. https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf
- AU - The A.U. Agenda 2063. https://au.int/sites/default/files/documents/33126-doc-framework_document_book.pdf
- AU - Organization of African Union Refugee Convention (adopted in 1969). https://au.int/en/treaties/oau-convention-governing-specific-aspects-refugee-problems-africa
- AU - African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa

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