

THE UN GLOBAL COMPACTS ON MIGRATION AND REFUGEES: A NEW SOLUTION TO MIGRATION MANAGEMENT, OR MORE OF THE SAME?

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Cover image: Red Cross volunteers and staff welcome 578 migrants off an Italian Coastguard boat to the port at Messina, Sicily, July 2015. They offer the migrants food and water, health checks, psychological support, and they ensure families stay together.

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ABSTRACT

On 22 and 23 May 2017, the UN hosted its second informal thematic session of the Global Compact on Migration. Designed to gather information, the sessions provide an informal setting for sharing experiences among UN member states, together with civil society members. This particular session focused on addressing human-made crises as drivers of migration and understanding the challenges facing countries that host migrants. The first session, held in Geneva on 8 and 9 May 2017, focused on social inclusion, intolerance and the human rights of migrants. The informal sessions form part of Phase I of the Global Compacts process, which will hopefully create a guiding framework to ensure safe, orderly and regular migration for the international community.

This paper examines the Migration Compact in light of existing tensions among UN member states, what it hopes to achieve, and how it differs from the Global Compact on Refugees. It discusses the lack of African member states' participation in the Migration Compact's process to date, and what this means for the continent's ability to inform the migration discussions in a way that benefits its citizens and addresses African-specific migration challenges. It also highlights potential challenges that could hinder the implementation of a successful global migration management framework, and suggests what the Migration Compact needs to tackle if it is to have long-lasting impact at a multilateral level.

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ABBREVIATIONS AND ACRONYMS

AU	African Union
CRRF	Comprehensive Refugee Response Framework
CSO	civil society organisation
ECOWAS	Economic Community of West African States
EUTF	EU Trust Fund for Africa
GCM	Global Compact for Migration
GCR	Global Compact on Refugees
GFMD	Global Forum for Migration and Development
IGAD	Intergovernmental Authority on Development
IOM	International Organization for Migration
LDC	least-developed country
MDC	more-developed country
NGO	non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
RCP	regional consultative process on migration
REC	regional economic community
SDG	sustainable development goal
UNCHR	UN Commission on Human Rights
UNDESA	UN Department of Economic and Social Affairs
UNESCO	UN Educational, Scientific and Cultural Organisation
UNGA	UN General Assembly
UNHCR	UN Refugee Agency

INTRODUCTION

Migration is a fundamental part of humankind's history. There are many reasons why people migrate, including better employment opportunities, an improved lifestyle, education, family resettlement, marriage,¹ and to escape threat to life and livelihood. The world has experienced large-scale movement of both refugees and migrants in recent years, many of whom are fleeing political oppression, natural disasters and civil war. Although not a new phenomenon, the truly arduous nature of the journeys that many refugees and migrants endure has come to light through visceral social media images and extensive publicity surrounding their perilous journeys across land and sea. The rising number of vulnerable persons as a result of migration, irregular migrants and refugees has compelled international leaders to acknowledge their plight and to engage in finding comprehensive, global and long-lasting solutions for refugee and migration management.

This paper focuses on international developments relating to the creation of a new framework for global migration management. It provides a picture of current migration trends across the globe and underscores the political tensions between developing and developed partners as discussions are held to forge a framework for global migration rules of play. In particular, the paper examines the various difficulties that African countries have faced in formulating a continent-wide approach towards migration, and informing ongoing global discussions on migration. Lastly, it examines what a future framework for global migration management ought to look like, and the political ramifications that could ensue if African countries fail to inform global discussions in a way that ensures their citizens' long-term sustainable and socio-economic development, and ability to access free movement in an increasingly inter-connected world.

REFUGEE AND MIGRATORY FLOWS IN THE 21ST CENTURY

The number of migrants and refugees that exist now starkly contrast with those numbers at the turn of the century. According to 2015 UN figures:²

- The number of international migrants and refugees reached 244 million, reflecting an increase of 71 million (41%) compared with 2000.
- The UN Refugee Agency (UNHCR) has recorded a staggering 65.6 million forcibly displaced persons, of whom 22.5 million are refugees – the highest number the world has ever seen.³

1 Castles S, 'The forces driving global migration', *Journal of Intercultural Studies*, 34, 2, 2013, pp. 122–40.

2 UNGA (UN General Assembly), Report of the SG (Secretary-General), *In Safety and Dignity: Addressing Large Movements of Refugees and Migrants*, Document A/70/59, 21 April 2016, http://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity_-_addressing_large_movements_of_refugees_and_migrants.pdf.

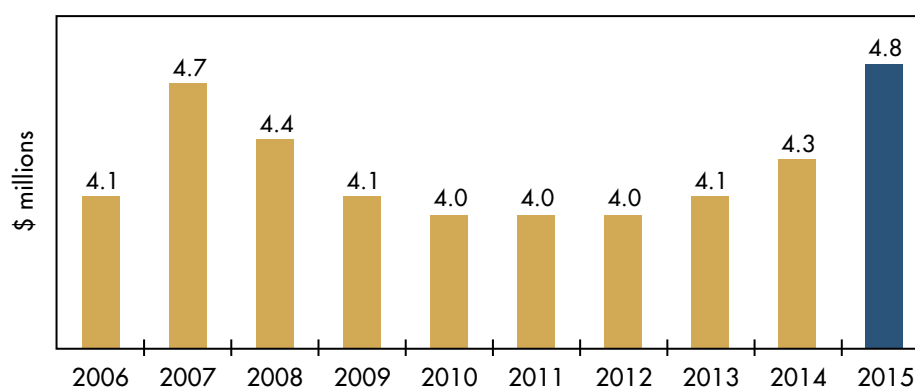
3 UNHCR (UN Refugee Agency), 'Figures at a glance: Statistical yearbooks', <http://www.unhcr.org/figures-at-a-glance.html>, accessed 29 June 2017.

Regularised, permanent migration (skilled labour) has not necessarily changed over time. Rather, the socio-economic and political pressures currently experienced by European governments in relation to migratory flow may be attributable to the recent mass influx of refugees, mixed migration and irregular migration to these countries

- The number of international migrants rose from 2.8% to 3.3% of the global population, of whom the majority are migrant workers (150 million), who account for 72.7% of the 206.6 million working-age migrant population (defined by the UN as aged 15 and over).

Permanent migration flows to countries in the Organisation for Economic Development and Co-operation (OECD), however, remained relatively stable from 2006–2015, which accounts for the period of the global financial crisis, as depicted in Figure 1. This suggests that regularised, permanent migration (skilled labour) has not necessarily changed over time. Rather, the socio-economic and political pressures currently experienced by European governments in relation to migratory flow may be attributable to the recent mass influx of refugees, mixed migration and irregular migration to these countries.

FIGURE 1 PERMANENT MIGRATION FLOWS TO OECD COUNTRIES (MILLIONS), 2006–15



Note: Data relating to 2015 growth is estimated based on growth rates published in official national statistics.

Source: OECD (Organisation for Economic Co-operation and Development), *International Migration Outlook 2016*. Paris: OECD, http://dx.doi.org/10.1787/migr_outlook-2016-en

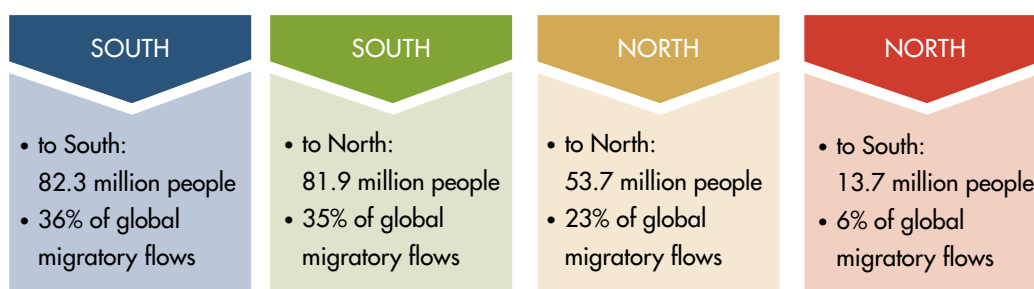
Migration from least-developed countries (LDCs) to more-developed countries (MDCs) in the Global South is growing at a rapid rate.⁴ This has complicated the traditional understanding of global migration as a South–North phenomenon, with migrants seeking to build new futures in countries beyond the OECD destinations. The UN Population Division highlights that international migration is growing only slightly faster than the global population levels, and that, short-term initiatives towards development can encourage rather than discourage migration. Owing to the advent of globalisation, the need for labour, skills and expertise now offers a wide array of opportunities to

⁴ *Ibid.*

those individuals who might not have considered relocating in the absence of such opportunities.⁵

According to the International Organization for Migration (IOM), more than half of the top-20 migration corridors are located in the Global South.⁶ Between 2000 and 2010, total migration stock in the South grew at 2.5% per year, compared with 2.3% in the North.⁷ These figures could well be higher if more reliable data for South–South migration was available.⁸ South–South migration for 2013 slightly exceeded South–North migration at 82.3 million international migrants, compared with 81.9 million.⁹ This means that 36% of South-born migrants were living in another South country in 2013.¹⁰ Figure 2 provides a breakdown of the distribution of international migrants.

FIGURE 2 DISTRIBUTION OF INTERNATIONAL MIGRANTS BY ORIGIN AND DESTINATION, 2013

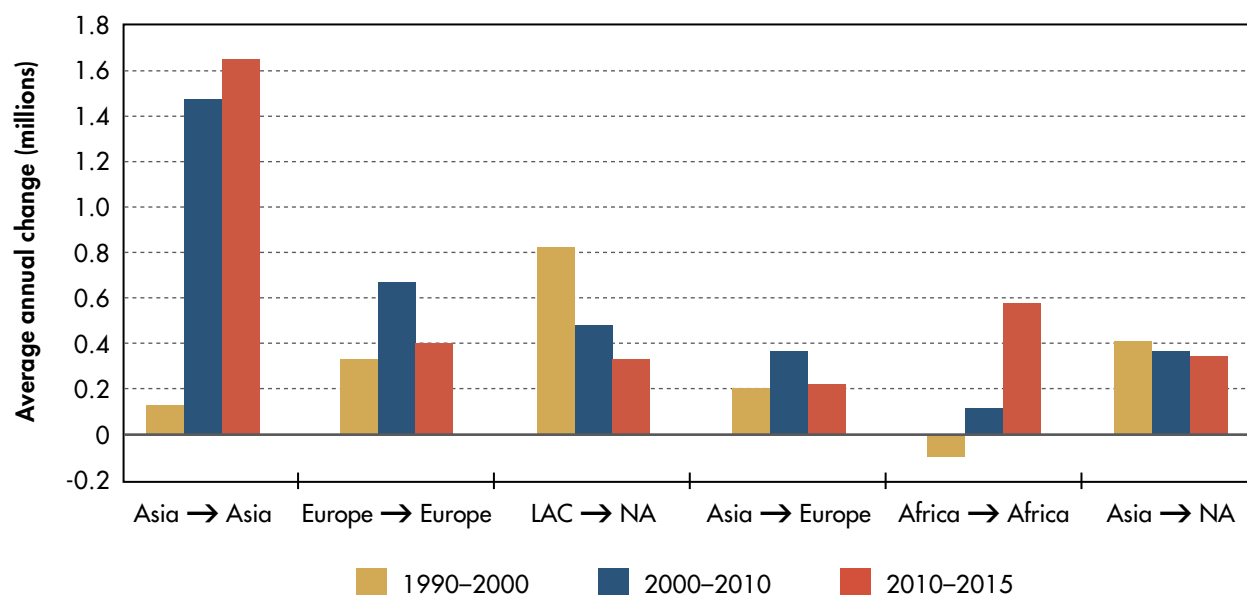


Source: UNDESA (UN Department of Economic and Social Affairs), Population Division, International Migration 2013: Migrants by Origin and Destination, Population Facts, 2013/3 Rev.1, April 2014

Figure 3 shows the average annual change in the number of international migrants over a longer time frame of 25 years.

- 5 Scribner T & F Vietti, 'Human insecurity: Understanding international migration from a human security perspective', *Journal on Migration and Human Security*, 1, 1, 2013, pp. 17–31.
- 6 IOM, *World Migration Report 2013: Migrant Well-Being and Development*. Switzerland: IOM, 2013.
- 7 UNDESA (UN Department of Economic and Social Affairs) & OECD (Organisation for Economic Co-operation and Development), *World Migration in Figures: A Joint Contribution by UN-DESA and the OECD to the United Nations High-Level Dialogue on Migration and Development*. New York: UNDESA, 2013.
- 8 IOM, *World Migration Report 2013*, *op. cit.*
- 9 UNDESA & OECD, 2013, *op. cit.*
- 10 UNDESA, Population Division, 'International migration 2013: Migrants by origin and destination', Population Facts, 2013/3, September 2013.

FIGURE 3 AVERAGE ANNUAL CHANGE IN THE NUMBER OF INTERNATIONAL MIGRANTS ALONG THE SIX LARGEST REGIONAL MIGRATION CORRIDOR ROUTES (MILLIONS), 1990–2015



Note: LAC refers to Latin America and the Caribbean; NA refers to North America.

Source: UNDESA Population Division, *International Migration Report 2015: Highlights ST/ESA/SER.A/37*, 2016

In 2015 half of all asylum seekers in OECD countries originated from Syria, Afghanistan and Iraq. At a global level, 4.9 million refugees were Syrian, 2.7 million Afghan and 1.1 million Somali.¹¹ This is perhaps unsurprising, given the high levels of instability in the Middle East, the presence of ISIS in parts of Iraq and the ongoing war in Syria. Besides Somalia, African asylum seekers accounted for only 14% of total asylum seekers in OECD countries, just 1% higher than the Syrian total percentage.

According to the UNHCR, however, the top refugee-hosting countries are developing countries. Turkey, for instance, hosts 2.6 million refugees, Pakistan 1.4 million, Lebanon 1 million, Iran 979 400, Uganda 940 800 (mostly South Sudanese fleeing the ongoing political turmoil), and Ethiopia 791 600.¹² Germany was the 8th most important host country for refugees in 2016.¹³

11 Edwards A, 'Global forced displacement hits record high', UNHCR, 20 June 2016, <http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>, accessed 29 June 2016.

12 UNHCR, 'Figures at a glance: Statistical yearbooks', *op. cit.*

13 World Economic Forum, '84% of refugees live in developing countries', <https://www.weforum.org/agenda/2017/06/eighty-four-percent-of-refugees-live-in-developing-countries/>.

As a region, sub-Saharan Africa hosts the largest number of refugees, at 4.4 million people.¹⁴ Many of these countries are experiencing domestic political turmoil and meagre economic growth themselves. Hosting such large numbers of refugees has only exacerbated their socio-economic difficulties, leading to heightened domestic and political tensions. To date, refugee hosting has not reflected an equitable sharing of responsibility among all countries, which is something that the UN Global Compacts process on Migration and Refugees seeks to address.

UNDERSTANDING THE GLOBAL COMPACTS FOR MIGRATION AND REFUGEES AND THEIR OBJECTIVES

The Global Compacts for Migration and Refugees are UN processes that seek to provide agreed-upon principles and commitments between UN states regarding international migration and refugees, with the intention ‘to create a framework for comprehensive international cooperation on the subject of migration and mobility’.¹⁵ They give member states the opportunity to establish actionable commitments and a framework on global governance and enhanced migration management.¹⁶ They also enable UN members to bring together several international efforts on migration issues through various forums and international conventions under a coherent and streamlined framework.

At a broader level, the UN Global Compact is a voluntary policy initiative based on businesses’ commitments to implement the [2030 Sustainable Development Goals](#) (SDGs) and to support UN principles. The compact’s governance framework was adopted on 12 August 2005, and its corporate sustainability initiatives are based on 10 principles covering labour, human rights, the environment and anti-corruption. The compact brings together private sector actors, UN organisations, and civil society organisations (CSOs) as stakeholders responsible for achieving the SDG goals by 2030.¹⁷

The Global Compacts on Migration and Refugees follow from the adoption of the [New York Declaration for Refugees and Migrants](#) (NY Declaration) on 19 September 2016 at the UN General Assembly (UNGA). The NY Declaration launched ‘commitments to start negotiations leading to an international conference’¹⁸ for both the migration and refugee compacts. It is the result of UN acknowledgement of an inadequate response by the international community to migration and refugee crises; growing concern over the crises’

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14 UNHCR, *Global Trends: Forced Displacement in 2015*. Geneva: UNHCR, 2016.

15 Guild E & S Grant, ‘Migration Governance in the UN: What Is the Global Compact and What Does It Mean?’, Legal Studies Research Paper, 252/2017, Queen Mary University of London, School of Law, 2017.

16 IOM, ‘Global compact for migration’, <https://www.iom.int/global-compact-migration>, accessed 26 June 2017.

17 UN Global Compact, <https://www.unglobalcompact.org>, accessed 27 June 2017.

18 UN, ‘New York declaration for refugees and migrants adopted by all member states at historic UN summit’, Press Release, 19 September 2016, https://refugeesmigrants.un.org/sites/default/files/un_press_release_-_new_york_declaration_-_19_september_2016.pdf, accessed 9 June 2017.

The NY Declaration is significant for two reasons. It reflects, for the first time, the expressed commitment among all UN members to share in responsibility for refugees – an achievement in garnering consensus on what has proven to be a contentious issue; and it has finally tabled migration as part of the agenda for international cooperation

impact on host communities; and the large volumes of movement made possible only by dangerous and life-threatening commutes and the social conditions migrants and refugees endure.¹⁹ The NY Declaration is significant for two reasons. It reflects, for the first time, the expressed commitment among all UN members to share in responsibility for refugees²⁰ – an achievement in garnering consensus on what has proven to be a contentious issue; and it has finally tabled migration as part of the agenda for international cooperation. To date no formal or coherent framework to govern migration within the international realm has been devised. Until recently the UN Secretariat was unable to table migration issues for discussion and agreement among UN members²¹ owing to migration being a highly politicised and sensitive topic for open discussion in a multilateral forum.

The adoption of the NY Declaration reflects a realisation among global leaders of the need for long-lasting solutions for both refugees and migration. This show of support was evident at the Leaders' Summit on Refugees on 20 September 2016 in New York. Co-hosted by the UN Secretariat and then US president Barack Obama, the Leaders' Summit brought together 32 heads of state and policy officials who pledged to increase global responsibility-sharing for resettlement and admission of refugees, while also increasing multilateral humanitarian assistance by \$4.5 billion.²² However, the financial pledge was made only for refugee assistance and not migrants, highlighting the differences in political support for the two issues.

THE GLOBAL COMPACT FOR MIGRATION

The *Global Compact for Migration* (GCM) is aligned with target 10.7 of the 2030 SDGs, whereby member states 'commit to cooperate internationally to facilitate safe, orderly and regular migration'.²³ Provided that it is used correctly, the 2030 Agenda provides a fantastic opportunity to mainstream issues of migration into the UN agenda²⁴ and to implement a progressive, future-orientated framework for migration management. A more detailed context for the GCM is provided in *Annex II of the NY Declaration*, which recognises the

19 UNGA, Report of the SG, Document A/70/59, *op. cit.*

20 Ferris E, 'In Search of Commitments: The 2016 Refugee Summits', Policy Brief, 3. Sydney: UNSW (University of New South Wales), Kaldor Centre for International Refugee Law, 2016.

21 Guild E & S Grant, *op. cit.*

22 UN, 'Summary Overview Document: Leaders' Summit on Refugees', https://refugeemigrants.un.org/sites/default/files/public_summary_document_refugee_summit_final_11-11-2016.pdf, accessed 28 June 2017.

23 Goal 10 of the Agenda for Sustainable Development is focused on reducing inequality within and among countries, with Goal 10.7 aiming to 'facilitate orderly, safe, regular and responsible migration and mobility of persons, including through the implementation of planned and well-managed migration policies'. (UNDESA, Sustainable Development Knowledge Platform, 'Transforming our world: The 2030 agenda for sustainable development', <https://sustainabledevelopment.un.org/post2015/transformingourworld>, accessed 9 June 2017.)

24 Guild E & S Grant, *op. cit.*

multidimensional character of international migration and promotes a holistic approach towards managing migration flows.²⁵

The GCM aims to achieve the following policy goals:

- contribute towards a global governance framework that takes into account all aspects of international migration, including the drivers of migration:
- establish a framework for comprehensive cooperation on international migration: and
- provide actionable commitments, means of implementation and a framework for member states.²⁶

The UN has also established a voluntary trust fund to support the participation of representatives from LDCs and developing countries in the intergovernmental negotiations stage.²⁷ To provide technical and policy expertise, the IOM was recruited to forge a ‘closer legal and working relationship with the UN’.²⁸ This is the first time the UN has agreed to deal with a migration-focused organisation as a related agency.²⁹ UN–IOM cooperation is designed to achieve mutual objectives without duplication.³⁰ The IOM’s authority as a migration expert organisation is acknowledged in the resolution adopted at the UNGA on 6 April 2017 on Modalities for the Intergovernmental Negotiations of a Global Compact for Safe, Orderly and Regular Migration (referred to as the [Modalities Resolution](#)).³¹ This represents some victory for the IOM in finally having migration on the global agenda. The process has become more consultative and there is increased scope for discussing migration in regional and global forums, instead of its being viewed as purely a national security issue.³²

The GCM process is governed by the Modalities Resolution, which outlines the formal preparatory process³³ and is broken down into three phases.

- **Phase I (April to November 2017):** Informal consultations with all stakeholders based on thematic sessions to be held at the UN offices in Geneva, Vienna and New York. The New York discussions focus on remittances and the drivers of migration.

25 UNGA, New York Declaration for Refugees and Migrants, Annex II: ‘Towards a global compact for safe, orderly and regular migration’, Document A/71/L.1, 13 September 2013, <http://undocs.org/A/71/L.1>, accessed 2 June 2017.

26 *Ibid.*

27 UNGA, *Modalities for the Intergovernmental Negotiations of a Global Compact for Safe, Orderly and Regular Migration*. Resolution adopted at the General Assembly on 6 April 2017. Seventy-first session: agenda items 13 and 117, Resolution A/RES/71/280, https://www.iom.int/sites/default/files/our_work/ODG/GCM/A-71_280-E.pdf, henceforth referred to as Modalities Resolution.

28 *Ibid.*

29 Guild E & S Grant, *op. cit.*

30 *Ibid.*

31 Personal interview, IOM representative, New York, 24 May 2017.

32 *Ibid.*

33 IOM, ‘Global compact for migration’, *op. cit.*

- **Phase II (November 2017 to January 2018):** Stocktaking from the consultations process in Phase I. A preparatory meeting in Mexico will take place in early December 2017 for three days, whereby the co-facilitators will present inputs received from the consultation stage and discuss implementation and review mechanisms for the GCM.
- **Phase III (February to July 2018):** Intergovernmental consultations will be held after the co-facilitators present a zero draft of the GCM to member states for discussion in February 2018.

The Modalities Resolution outlines the key elements and time frames for the GCM process, which include the following:

- sanction the process as an intergovernmental conference to be discussed at the highest political level;
- include CSOs, academics, non-governmental organisations (NGOs) and related organisations as part of the compact's 'whole-of-society approach' underpinning the consultative discussions necessary for the GCM's preparatory process; and
- ensure that the GCM contains actionable outcomes, means of implementation, and a framework for follow-up and review of implementation.³⁴

The Modalities Resolution also notes the request to appoint two co-facilitators responsible for leading the intergovernmental consultations, the intergovernmental conference and its preparatory process, and regulating coordination and consultation with all member states and regional groups.³⁵ Switzerland and Mexico have since been appointed as these co-facilitators.³⁶ In Phase I they are responsible for preparing summaries of the informal thematic sessions that will serve as preparation for the GCM.³⁷

THE GLOBAL COMPACT ON REFUGEES

Linked to the NY Declaration is the Global Compact on Refugees (GCR), which is addressed in Annex I of the NY Declaration. The UNHCR has been tasked with collating inputs from member states and preparing the zero draft of the GCR, which follows a similar process to the GCM. This includes holding informal thematic discussions, stocktaking and lesson learning and sharing in late 2017, the outcomes for which will then be incorporated into the GCR.³⁸ The zero draft will be circulated to member states in February 2018, with formal consultations occurring between February and July 2018. Thereafter, the High Commissioner will present the GCR at the UNGA's 73rd session in 2018.³⁹

34 UNGA, Modalities Resolution, *op. cit.*, articles 1(b), 2 and 6.

35 *Ibid.*, article 5.

36 IOM, 'Global compact for migration', *op. cit.*

37 UNGA, Modalities Resolution, *op. cit.*, article 21.

38 UNHCR, 'Towards a global compact on refugees', <http://www.unhcr.org/towards-a-global-compact-on-refugees.html>, accessed 6 June 2017.

39 UNHCR, *Towards a Global Compact on Refugees: A Roadmap*, 2017, <http://www.unhcr.org/58e625aa7>, accessed 6 June 2017.

The GCR has two core focuses:

- The Comprehensive Refugee Response Framework (CRRF), detailed in Annex I of the NY Declaration. Stocktaking and lessons learnt from the piloted projects under the CRRF will be incorporated into the GCR as part of developing a global framework for refugee management; and
- a programme of action underpinning the CRRF and the GCM's implementation.

The CRRF also follows a whole-of-society approach that aims to establish specific actions required to 'ease the pressure on host countries, enhance refugee self-reliance, expand access to third-country solutions, and ensure safe and dignified returns to countries of origin'.⁴⁰ There are four pillars to the CRRF, namely reception and admission; support for immediate and ongoing needs; support for host countries and communities; and finding durable solutions. The programme of action will contain best practices for implementation and identify operational gaps that need to be addressed.⁴¹ Importantly, it does not seek to increase burdens on member states by imposing additional obligations but aims to share responsibility and fulfil already existing obligations.⁴²

The Global Compacts process is well timed and broadly supported by UN members. Migration and refugee issues have not been afforded equal importance in the many years building up to the process and it remains to be seen how much either of the compacts are capable of achieving, particularly the GCM, which has far more groundwork to cover and requires more consensus building among UN member states.

WHAT'S IN A NAME? DEFINING MIGRANTS AND REFUGEES

The Global Compacts process will help to establish clear parameters for a global governance structure to address irregular, economic and mixed migration flows, improve burden sharing among hosting countries, and ensure that human rights for migrants and asylum seekers alike are protected and respected in transiting and host countries. It also provides an opportunity to clarify definitions of people who qualify as migrants; the circumstances giving rise to migrants; and migrants' rights in host countries and while in transit.

The [UN Convention Relating to the Status of Refugees of 1951 and its 1967 Protocol](#) define a refugee as a person who:⁴³

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection

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40 *Ibid.*

41 UNGA, Report of the SG, Document A/70/59, *op. cit.*

42 *Ibid.*

43 UNHCR, Convention and Protocol Relating to the Status of Refugees, The 1951 Refugee Convention, article 1(A)(i), <http://unhcr.org.ua/files/Convention-EN.pdf>, accessed 18 October 2017.

of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

TABLE 1 CATEGORIES OF MIGRANTS

Type of migration	Definition
Circular migration	The fluid movement of people between countries, including temporary or long-term movement, which may be beneficial to all involved. It is often linked to, and used to, address the labour needs of countries of origin and destination.
Forced migration	The coerced movement of people, including threats to life and livelihood, whether arising from natural or man-made causes. For example, the movement of refugees and internally displaced people, as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, and development projects.
Immigration	The movement of non-nationals into a country for the purpose of settlement.
Irregular migration	The movement of people outside the regulatory norm of sending, transit and receiving countries. For receiving countries this entails entering, working or staying without valid authorisation and documentation. For sending countries irregularity occurs when a person crosses international boundaries without valid travel documents.
Mixed migration	The complex movement of populations including refugees, asylum seekers, economic migrants and other migrants. ^a
Migration management	The movement of people as a result of a planned approach to policy development, and legislative and administrative responses to key migration issues. Such measures include enforcing quality control, ensuring capacity building for government officials, mainstreaming migration sectors including labour and health, and implementing policies to address counter-trafficking and assisted voluntary return. ^b
Illegal migration	The movement of people through migrant smuggling and people trafficking.

a IOM (International Organization for Migration), *Irregular Migration and Mixed Flows: IOM's Approach*, Document MC/INF/297, October 2009.

b IOM, 'Migration management', <https://www.iom.int/migration-management>, accessed 14 September 2017.

Source: IOM (International Organization for Migration), 'Key migration terms', <https://www.iom.int/key-migration-terms>, accessed 23 June 2017

The IOM provides a comprehensive definition of a migrant as being:⁴⁴

any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. IOM concerns itself with migrants and migration-related issues and, in agreement with relevant States, with migrants who are in need of international migration services.

However, because the IOM functions as an independent organisation outside the UN, states are not compelled to consider the IOM definition or incorporate it into UN conventions and committee reports.

In comparison, Article 2(1) of the [1990 UN Convention on Migrant Workers](#) defines a migrant as a 'person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national'.⁴⁵ Similarly, a 1997 resolution from the Commission of Human Rights has interpreted migrants as people who have decided to migrate freely, for reasons of 'personal convenience' and without intervention of an external compelling factor.⁴⁶ These are all extremely broad definitions, which provide a limited understanding of the varied contexts under which migration occurs.

The UN definition of a refugee establishes clear legal parameters for the circumstances under which an individual can be considered a refugee. However, people who are labelled as migrants are not afforded the same clarity. The definition of a migrant remains a contentious point among academics and policymakers alike. The current understanding of migrants provides for simplistic interpretations, where migration includes the 'choice' to move without being linked to a direct threat of persecution or death, and where migrants have the choice to return home (unlike refugees). Although this might be true for a very particular class of economic migrants, such an understanding of the situations giving rise to migration is extremely limited in scope, and does not account for the more nuanced and pressing challenges facing migrants in the 21st century. These challenges include categories of involuntary migrants (trafficked persons and vulnerable persons), events resulting in involuntary migration (political oppression and recurring climate change-induced natural disasters), mixed migration, and other forms of human insecurities that could drive people to migrate. The rise in xenophobia and discriminatory behaviour by host communities

The definition of a migrant remains a contentious point among academics and policymakers alike. The current understanding of migrants provides for simplistic interpretations, where migration includes the 'choice' to move without being linked to a direct threat of persecution or death, and where migrants have the choice to return home (unlike refugees)

44 IOM, 'Key migration terms', <https://www.iom.int/key-migration-terms>, accessed 23 June 2017.

45 Formally known as the International Convention on the Protection of All Migrant Workers and the Members of Their Families, 1990.

46 UNCHR (UN Commission on Human Rights), *Report of the Working Group of Intergovernmental Experts on the Human Rights of Migrants Submitted in Accordance with Commission on Human Rights Resolution 1997/15*. Geneva: UNCHR, 1997; UNESCO (UN Educational, Scientific and Cultural Organisation), 'Migrant/Migration', <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/migrant/>, accessed 23 June 2017.

Migration is largely viewed as an unpalatable topic for discussion at a global level, and for many years has lacked the necessary traction to garner political support to table issues concerning migrants

towards migrants has done little to alleviate the already existing challenges migrants face in their host countries.

Unfortunately there are considerable political and multilateral divisions on migration among UN members. Migration is largely viewed as an unpalatable topic for discussion at a global level, and for many years has lacked the necessary traction to garner political support to table issues concerning migrants. It remains an unresolved issue in the 21st century, exacerbated by the absence of a dedicated international migration body within the UN structure, similar to the UNHCR. The result has been greater progress on refugee issues at a multilateral level because refugees are clearly defined and protected by international law. In comparison, beyond the framework of establishing minimum standards for migrant workers, issues of migration have largely been a non-starter at the international level.⁴⁷ Moreover, governments are not subjected to overarching international laws that mandate basic minimum standards for the treatment of migrants. As such, governments need only apply their domestic processes and immigration laws to migrants, and many governments afford migrants as few rights as possible.⁴⁸

A further constraint in establishing a migration framework has been the distribution of international norms addressing migration across numerous conventions, which has made synthesising these norms applicable to migrants difficult.⁴⁹ Migration policies at national levels have been ad hoc and fragmented, with many countries lacking the capacity required to implement these policies.⁵⁰ Such policies also provide member states with numerous loopholes in how they manage migrant communities within their countries – for example, by withholding social benefits, such as labour law protection. Although the UN Convention on Migrant Workers is designed to ensure the protection of migrants' basic labour and human rights,⁵¹ it remains questionable whether, in practice, they are afforded such rights in host countries. Many states are unwilling to deal with the potential political turmoil and backlash of their citizens if they are seen to be favouring the rights of migrants over those of their own nationals. In view of these specific 21st-century problems, it remains to be seen whether the GCM and NY Declaration will succeed in securing state support for an internationally sanctioned migration governance framework that has to be implemented by nation states.

47 The International Convention on the Protection of the Rights of All Migrant Workers and Members of the Families 1990 has sought to establish minimum standards that states should apply to migrant workers and members of their families, irrespective of their migratory status.

48 Edwards A, *op. cit.*

49 Some of these efforts include the UN Convention on Migrant Workers in 1990, the High Level Panel Meeting on Migration in 2006, and the Global Forum on Migration and Development in 2007.

50 UNGA, Report of the SG, Document A/70/59, *op. cit.*

51 UN Convention on Migrant Workers/UN, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, *op. cit.*, article 7 (human rights) and article 25 (labour rights).

THE NEED FOR SEPARATE REFUGEE AND MIGRATION COMPACTS

At their most basic level, there is some overlapping between the refugee and migration compacts. Both are committed to finding human rights-based solutions to refugee and migration management, taking into account the role of international cooperation and shared responsibility to manage large-scale movements in a humane and people-centred way. There is also a common focus on the root causes of both refugee and migration flows (particularly as the drivers and push–pull factors for migratory and refugee flows overlap), and the need for humanitarian finance to address long-term socio-economic developmental needs of migrants and refugees in their host countries. The two compacts will strive to reflect a more updated and accurate representation of the nuances present in both refugee and migration management, while also providing the potential for coherent long-term policy solutions. In short, the NY Declaration acknowledges the overlapping of refugee and migration movements, which need to be addressed in the new global frameworks emerging out of the UN Global Compacts processes.

Migration policies at national levels have been ad hoc and fragmented, with many countries lacking the capacity required to implement these policies for migrants

Despite the overlapping, there is still the need for separate processes, particularly because actions to date have been about crisis management rather than sustainable, long-term solutions for refugee and migration management. The GCR needs to address financial responsibility-sharing – something that the Geneva Convention does not cover. The GCR is supposed to have a narrower scope that builds on existing mechanisms and finds consensus among member states with regard to responsibility sharing and financial support to those UN members that are host countries requiring assistance.⁵² To this end, private sector involvement and input from multilateral banks (such as the World Bank) and other development partners have to be a part of the solution.

Far more work needs to be done on clarifying fundamental basics surrounding migration, and on creating a modern governance framework for migration management. To date, there are very few international policies and jurisprudence that address migrant needs. There is no comprehensive framework that addresses the various social, economic and human rights needs of migrants, and it is important that the GCM seeks to fill that void.⁵³

CONSTRAINTS OF THE NY DECLARATION

Although the NY Declaration has broad-based political support, it is only an expression of political will, and UN members have not committed themselves to taking concrete actions. Similarly, neither of the global compacts will be legally binding documents, although they could respectively reflect existing rules of international law.⁵⁴ Agreeing upon a definition of who constitutes a migrant would be a very important initial step. This has raised questions

52 Lebeda AM, 'Officials explain proposed global compacts on refugees, migrants', IISD (International Institute for Sustainable Development), 28 June 2016, <http://sdg.iisd.org/news/officials-explain-proposed-global-compacts-on-refugees-migrants>, accessed 29 June 2017.

53 *Ibid.*

54 McAdam J, 'Factsheet: The 2018 Global Compacts on Refugees and Migration'. Andrew and Renata Kaldor Centre for International Refugee Law. Sydney: UNSW, 2017.

To date migration governance is centred on border control, deterrence and the prevention of people entering the territories of states. Therefore, although member states have agreed upon what ought to be done, the reality is that not much has been done in practice

about the commitment of states to the process and whether these will translate into significant changes in how refugees and migrants are managed. There are concerns among those monitoring the processes that, despite the NY Declaration containing principles that countries already agree upon, many of these will simply not be implemented given that the NY Declaration has been ‘intentionally watered down with cop-out clauses’.⁵⁵ This is reflected in abstract principles, usage of words in the text such as ‘may consider’ (which do not create binding obligations for member states), and the vastly different views held on migration and refugees by member states. Australia, for example, has received widespread condemnation for its Christmas Island detention policies, whereas Canada has been lauded for its private programme that sponsors refugees. Such fundamentally divergent approaches adopted by different member states are apparent throughout the NY Declaration.⁵⁶ The NY Declaration refers only to considering ‘developing non-binding guiding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations’, and does not mandate this as a binding requirement among UN members.⁵⁷

Verbally, states are committed to protecting the rights of both migrants and refugee communities. However, to date migration governance is centred on border control, deterrence and the prevention of people entering the territories of states.⁵⁸ Therefore, although member states have agreed upon what ought to be done, the reality is that not much has been done in practice.⁵⁹ The NY Declaration has also been criticised for focusing on combatting smuggling and trafficking rather than on facilitating legal pathways for migration.⁶⁰ As such, it remains to be seen which nations are willing to implement these commitments to finding global solutions to refugee and migration management to the fullest extent.

Despite these concerns, that the discussions began in New York rather than in Geneva reflects the political importance of the issue and the extent to which there is a need for high-level engagement on issues surrounding migration and refugee flows.⁶¹ This can be gauged from the types of thematic sessions being held in New York compared with those in Geneva. The Geneva consultations cover issues such as human rights, natural crises, and decent work – issues that speak to a broader human rights framework. Topics discussed

55 Igoe M, ‘A long road to shared responsibility for refugees and migrants’, Devex, 21 September 2016, <https://www.devex.com/news/a-long-road-to-shared-responsibility-for-refugees-and-migrants-88784>, accessed 7 June 2017; Personal interview, Open Society Foundation representative, New York, 23 May 2017.

56 Almeida G & K Bamberg, ‘The UN Summit for Refugees and Migrants: A Mirror of the Current EU Migration Policy?’, EU Immigration and Asylum Law and Policy, 24 November 2016, <http://eumigrationlawblog.eu/the-un-summit-for-refugees/>, accessed 28 June 2017. See also Igoe M, *ibid.*

57 UNGA, Modalities Resolution, *op. cit.*

58 Personal interview, Centre of Migration Studies of New York representative, New York, 22 May 2017.

59 Personal interview, Open Society Foundation representative, *op. cit.*

60 Almeida G & K Bamberg, *op. cit.*

61 Personal interview, Mexican representative to the UN, New York, 24 May 2017.

in New York include trafficking, financial contributions of migration to sustainable development, and international cooperation on migration. These are topics in which states have a strong national interest and could encounter political pressure domestically should they make special concessions. The politicised nature of migration is further evidenced by the secretary-general's recognition of a lack of expertise on migration issues within the UN Secretariat, and his call for establishing the office of the Special Representative of the Secretary-General for International Migration in his letter of 21 December 2016.⁶² Louise Arbour from Canada was appointed as the special representative on 9 March 2017,⁶³ and will work to ensure political momentum and support for the GCM throughout the entire process. The special representative's responsibility is to engage with regional economic communities (RECs) and member states alike, to determine the broader appetite for completing the GCM process, and to establish the concerns and issues that member states have regarding their own experiences with migration management.⁶⁴

PROGRESS ON THE MIGRATION COMPACT: GOING NOWHERE SLOWLY?

Progress on the GCR is outpacing that of the GCM, with key differences between the two already apparent. The GCR process has a clearer mandate and appears to have achieved broader consensus among UN member states. It is steered by the UNHCR, a designated international organisation with expertise in refugee-related matters. The UNHCR's close guidance over the consultations and drafting process of the GCR will ensure greater clarity in this document. UN members have committed to the declarations detailing the CRRF,⁶⁵ which already has broad support and endorsement from UN members. The CRRF is currently being implemented via eight pilot programmes in existing refugee situations, including Ethiopia, Honduras, Uganda and Somalia.⁶⁶ The inclusion of findings from the CRRF's pilot programmes will provide critical insights into how best practices can be shaped, together with domestic implementation of successful refugee management policies. Uganda, as one of the pilot programme sites, has shown good complementarity between the interventions of various development partners and the UNHCR.⁶⁷ Despite this progress, however, discussions around internally displaced persons remain unsolved under the GCR. This constitutes a problem, as globally the biggest group of persons in need of protection have not received adequate focus and discussion within the confines of the GCR.

The CRRF follows the 2016 global facility by the World Bank that aims to strengthen its ability to address refugee crises. Valued at \$2 billion, the Global Crisis Response Platform is a UNHCR–World Bank partnered project that will act as a lending facility

62 UNGA, Modalities Resolution, *op. cit.*

63 UN, 'Secretary-General appoints Louise Arbour of Canada Special Representative for International Migration', Press release, 9 March 2017, SG/A/1712*-BIO/4940*, <https://www.un.org/press/en/2017/sga1712.doc.htm>, accessed 8 June 2017.

64 Personal interview, UN representative, New York, 22 May 2017.

65 UNHCR, *Towards a Global Compact on Refugees: A Roadmap*, *op. cit.*

66 McAdam J, *op. cit.*

67 Personal interview, UNHCR representatives, New York, 22 May 2017.

(grants and concessional loans) supporting projects in LDCs and MDCs that host refugee communities, which many developed countries have committed to supporting.⁶⁸ This partnership has the potential to be a game-changing initiative, particularly for those hosting countries that require funding to ensure adequate infrastructure and services development to refugee-hosting areas, as is currently under way in Uganda.⁶⁹ However, these remain scoping exercises: the World Bank is yet to present the findings from its feasibility studies and progress on this front is subject to board approval.⁷⁰

Unlike the GCR, the GCM is an intergovernmental, state-led approach. Although it does benefit from the IOM's institutional leadership,⁷¹ it is characterised by a greater range of cross-cutting issues and a wider range of stakeholders.⁷² This opens up scope for influencing the contents of the GCM,⁷³ particularly as the process remains driven by member states that have their own interests at heart.

Progress on the GCM remains deeply entangled in state-driven processes, and it is unclear whether the co-facilitators will be able to broker a middle ground that all states are happy with

Reverence for individual state's governmentality is also evident in the Modalities Resolution. Despite the document emphasising the importance of a whole-of-society approach in the consultations stage, the resolution also stresses that 'the intergovernmental nature of the negotiations, however, will be fully reflected'.⁷⁴ Progress on the GCM remains deeply entangled in state-driven processes, and it is unclear whether the co-facilitators will be able to broker a middle ground that all states are happy with. Despite good levels of CSO and NGO representation in the processes thus far, questions remain surrounding the extent to which they will be able to influence the contents of the GCM unless these actors are also making their views known at a capital level.⁷⁵

As discussed, the absence of an international body of migration law and norms is another critical difference that sets the two processes apart. Migration simply does not share the same benefits as refugee protection by being able to call on legal precedent and obligation such as the Geneva Convention. The absence of legal norms and minimum standards by which to bind states' behaviour further compounds the challenges the GCM could face in its application, scope and coverage.⁷⁶ There are fears that the GCM will amount to little more than a re-articulation of general commitments among member states, with little from the agenda becoming binding in the long run.⁷⁷ The reality therefore remains that there are no real requirements detailing the contents for the GCM and it remains an ongoing ad-hoc process, which has influenced perceptions among member states concerning its long-term viability and ability to secure binding commitments.

68 McAdam J, *op. cit.*

69 Personal interview, UNHCR representatives, *op. cit.*

70 *Ibid.*

71 McAdam J, *op. cit.*

72 Personal interview, IOM representative, *op. cit.*

73 McAdam J, *op. cit.*

74 *Ibid.*

75 Personal interview, Centre of Migration Studies of New York representative, *op. cit.*; Personal interview, Mexican representative, *op. cit.*

76 McAdam J, *op. cit.*

77 Personal interview, UNHCR representatives, *op. cit.*

TABLE 2 DIFFERENCES BETWEEN THE MIGRATION COMPACT AND REFUGEE COMPACT	
Refugee Compact	Migration Compact
There is a foundational base of international law and the Geneva Convention on Refugees upon which to build the contents of the GCR.	There are no established international laws or norms that define migrants and different types of migration.
It is spearheaded by the UNHCR, which is mandated to prepare the draft version of the compact after consultations with all relevant stakeholders.	It is a state-led process in terms of which the IOM provides expert advice to member states. The co-facilitators are Mexico, Switzerland and the UNSG Special Representative, Louise Arbour.
The compact seeks to extend states' responsibility for the Geneva Convention on Refugees.	Migration is a highly politicised topic that has failed to garner traction for global political discussion among member states until recent years.
The CRRF is already under way via pilot projects in select countries.	There are no methodologies or policies in place to tackle migration flows.
There is general participation from member states to discuss and engage on these issues.	There is a lack of African states' participation to date.
The GCR aims to find consensus among member states with regard to responsibility sharing and financial support to UN members that are host countries and need assistance.	The GCM has no mechanism in place for member states with regard to financial implications of hosting migrants.

Source: Author

THE POLITICS OF MIGRATION: WHERE DOES AFRICAN PARTICIPATION FEATURE?

Different starting points between the Global North and the Global South: The links between development and migration

Migration is a highly politicised issue that has affected the kinds of commitments countries are willing to agree to in order to achieve improved migration management. Historically, the Global North and Global South have different starting points on discussions surrounding migration. Some countries in the Global South, notably several African countries, have been able to use the effects of migration (such as remittances) to spur development within their countries, and have been supportive of North–South migration when they have benefited financially. The IOM reports that South–North migrants are responsible

for sending 43–62% of all remittances,⁷⁸ and it is generally accepted that remittances often constitute greater totals than official development assistance made available to many African countries by their developed partners. There is a vested interest for these African countries in having outwards migration, which could explain their reluctance to engage the Global North on finding solutions that cater for return migration or circular migration. It is important to remember, however, that South–South migration is also an academic description of what is, ultimately, localised movements of people. This means that the majority of African nationals remain on the continent, which has given rise to tensions around intra-African migration.

African countries have an even greater imperative to be involved in the GCM processes, if only to establish set rules of play among themselves

As such, intra-African migration remains a contentious issue and a power struggle between sending and receiving African states. South Africa and Kenya, for example, both support stricter border controls that reduce the number of economic migrants in their countries.⁷⁹ This is unsurprising, given the large number of migrants they host, as depicted in Figure 4. In this way, both countries are responsible for contributing to a broader international trend of normalising the security agenda and practices that will probably compromise refugee and migrant rights in the coming years.⁸⁰ As of March 2017, South Africa has formalised its Border Management Agency, which will act as a single authority managing the country's ports of entry. Measures to enhance security and greater border controls are becoming increasingly commonplace across the African continent.⁸¹ IOM records from 2013 show that 82% of international migrants from Africa live in a country in the same region as their country of origin – the highest percentage of all the continents.⁸² On this basis, African countries have an even greater imperative to be involved in the GCM processes, if only to establish set rules of play among themselves.

Cross-continental migration trends have also been negatively impacted by increased instability in the Sahel region and Libya, which has increased the number of African migrants to EU member states. Together with the influx of Syrian refugees to the EU, and right-wing nationalism, disdain for migrants and refugees alike has increased in several Western countries, including the US.⁸³

The GCM could be viewed as a grand bargain between the Global North and the Global South, in terms of which concessions must be made in order to get both sides to agree to a shared agenda.⁸⁴ For the Global South, and Africa in particular, this could entail more financing for development, better mechanisms in place for sending and receiving

78 IOM, *World Migration Report 2013*, *op. cit.*

79 Landau LB, 'UN "Global Compact" may prove regressive for Africa's migrants', *Refugees Deeply*, 14 September 2016, <https://www.newsdeeply.com/refugees/community/2016/09/14/u-n-global-compact-may-prove-regressive-for-africas-migrants>, accessed 28 June 2017.

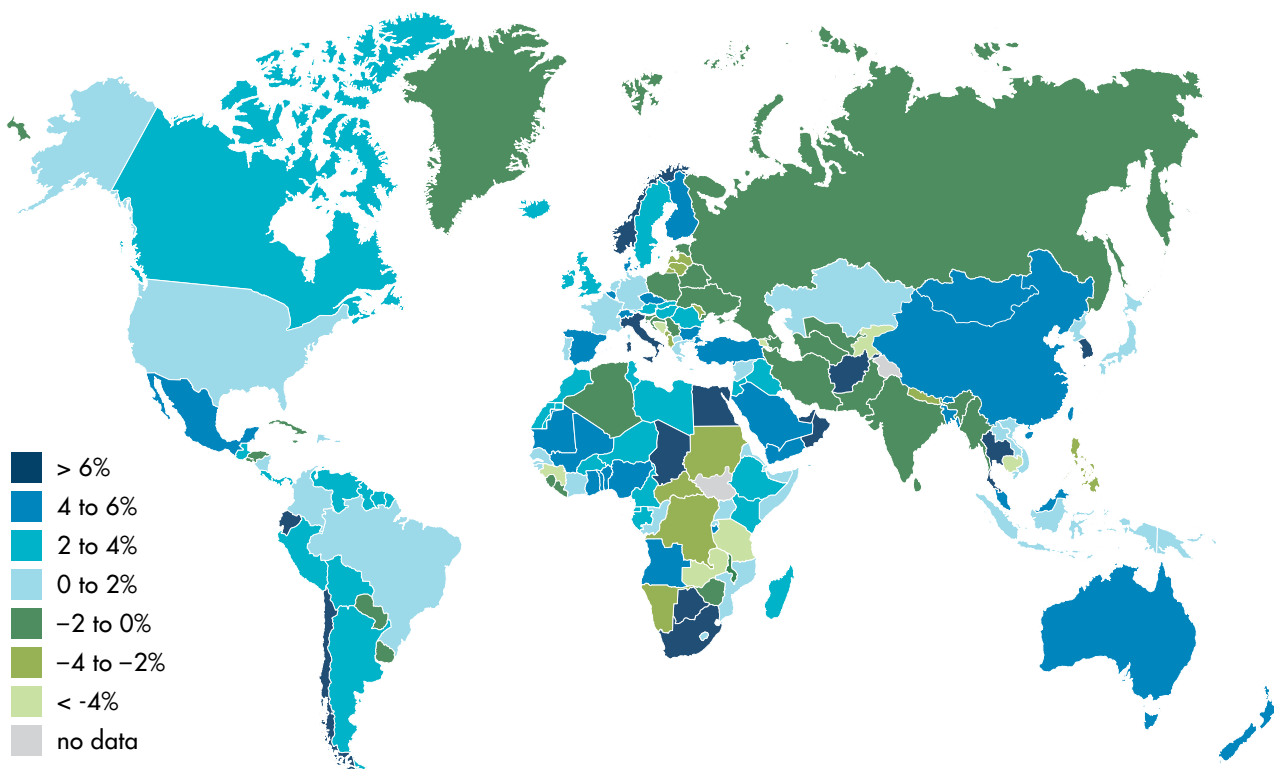
80 Personal input from ACMS UN researcher, 20 July 2017.

81 Landau LB & C Kihato, 'Securitising Africa's borders is bad for migrants, democracy, and development', *IRIN News*, 5 July 2017, <https://www.irinnews.org/opinion/2017/07/05/securing-africa-s-borders-bad-migrants-democracy-and-development>, accessed 25 July 2017.

82 UNDESA, *op. cit.*

83 Ferris E, *op. cit.*

84 Personal interview, Open Society Foundation representative, *op. cit.*

FIGURE 4 AVERAGE ANNUAL RATE OF CHANGE IN THE NUMBER OF INTERNATIONAL MIGRANTS BY COUNTRY/AREA OF DESTINATION (%), 2000–15

Source: UNDESA Population Division, International Migration Report 2015: Highlights ST/ESA/SER.A/37, 2016

remittances, legal pathways to migration, and discussions that also focus on employment opportunities for their citizens. For the Global North, discussion points would most likely centre on addressing security issues across the African continent (particularly as North Africa has become increasingly unstable); circular migration; and employment opportunities for Africa's youth. Ultimately, the real tension in negotiating the Global Compacts will come from finding broad consensus among member states in balancing legal pathways and return policies.⁸⁵

Differences in approach have also informed perceptions of agency over the GCM process and which countries are driving these discussions. Perceptions are important: although the Global Compacts are an internationally led agenda, some developing countries view the promotion of migration in the international arena as an EU-driven process, despite

Perceptions are important: although the Global Compacts are an internationally led agenda, some developing countries view the promotion of migration in the international arena as an EU-driven process, despite contrary testimonies from EU officials

85 Personal interview, UNHCR representatives, *op. cit.*; Personal interview, migration and mobility representative, Zolberg Institute, New York, 23 May 2017.

contrary testimonies from EU officials.⁸⁶ South–North migration has been the main driver of migration trends, and hence could partially explain the EU and Western countries' recent interests in finding solutions to global migration flows. Such perceptions could also be fuelled by the creation of the EU Emergency Trust Fund for Africa (EUTF) in November 2015 at the Valletta Summit on Migration. Valued at EUR⁸⁷ 2.8 billion, the EUTF was created to address the root causes of irregular migration from Africa and facilitate increased cooperation with African countries on security issues.⁸⁸ Similarly, the EU's 2016 [Migration Partnership Framework](#) targets 'better managed migration flows' with a key focus on the African origin of sending countries of Mali, Nigeria, Senegal and Ethiopia.⁸⁹ The EU Civil Protection and Humanitarian Aid contributed in excess of EUR 1,972 million (87% of its annual budget) towards projects assisting forcibly displaced people and their host communities in 56 countries, of which Turkey, Greece, Syria, Iraq and South Sudan are the top five recipient countries.⁹⁰ The EU has also mobilised EUR 9.4 million for relief and recovery assistance for Syrians still in Syria and those hosted as refugees in neighbouring Jordan, Lebanon, Iraq, Turkey and Egypt.⁹¹ However, in light of events such as the Calais 'jungle' refugee camp and the reluctance of Hungary and Poland to admit refugees into their countries, it is questionable whether financial assistance is sufficient to mitigate criticisms that the EU is not engaged in sufficient responsibility sharing and is paying for the 'problem' to be kept away from its borders.

Addressing the root causes of migration is a complicated process and requires long-term economic development. Simplistic assumptions that increased development will result in decreased migration, or that conditioning aid on the basis of decreased migration flows (a reality for many African and Central American countries)⁹² will reduce migration, are fundamentally flawed.⁹³ The UN's 2015 International Migration Report shows that most migrants worldwide originated from middle-income countries and were living in high-income countries.⁹⁴ High-income countries host 71% of all international migrants – 173 million in total. Of these, 124 million are hosted in high-income OECD countries, 49

86 Personal interview, EU representatives, New York, 22 May 2017.

87 EUR is the three-letter currency code for the Euro.

88 European Commission, International Cooperation and Development, 'The EU emergency trust fund for Africa', https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en, accessed 13 June 2017.

89 EU External Action, 'Migration partnership framework: Factsheet', 16 September 2016, https://eeas.europa.eu/headquarters/headquarters-homepage_en/9885/Migration%20partnership%20framework,%20factsheet.

90 European Commission, European Civil Protection and Humanitarian Aid Operations, 'Refugees and internally displaced persons', https://ec.europa.eu/echo/what-we-do/humanitarian-aid/refugees-and-internally-displaced-persons_en, accessed 14 September 2017.

91 *Ibid.*

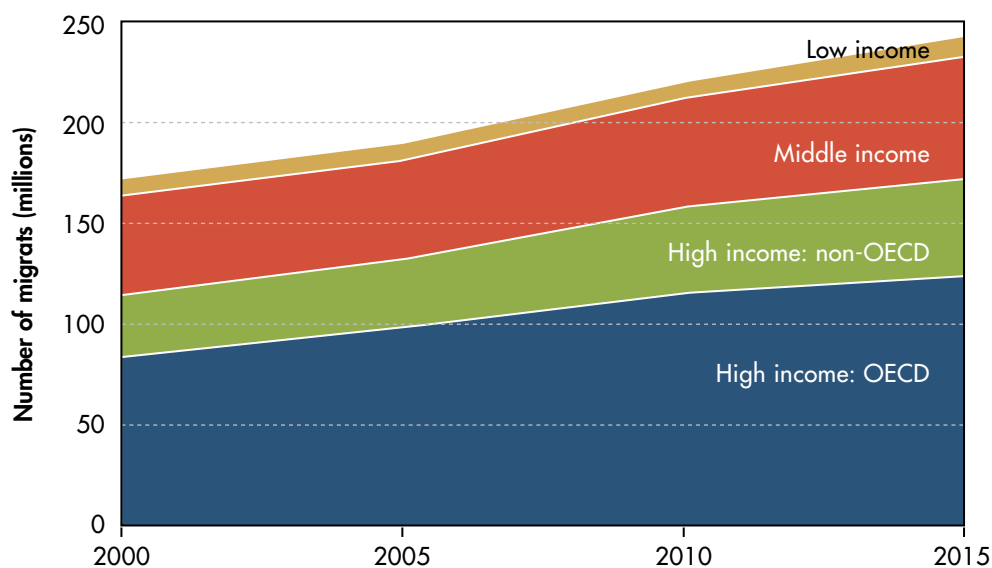
92 Personal interview, Centre of Migration Studies of New York representative, *op. cit.*

93 Frank M *et al.*, 'Tackling Irregular Migration through Development – A Flawed Approach?', European Policy Centre Discussion Paper, 2017; Personal interview, Centre of Migration Studies of New York representative, *op. cit.*

94 UNDESA Population Division, *International Migration Report 2015: Highlights*, ST/ESA/SER.A/375. New York: UNDESA, 2016.

million migrants live in other high-income non-OECD countries, and only 71 million live in middle or low-income countries, as depicted in Figure 5.⁹⁵ If anything, therefore, development actually encourages migration, rather than deterring it.

FIGURE 5 NUMBER OF INTERNATIONAL MIGRANTS BY INCOME GROUP OF COUNTRY OR AREA OF DESTINATION (MILLIONS), 2000–15



Note: The classification of countries and areas by income level is based on 2014 gross national income per capita, in US dollars, calculated by the World Bank.

Source: UNDESA Population Division, International Migration Report 2015: Highlights ST/ESA/SER.A/37, 2016

Conditionality – namely, conditioning development cooperation as a means of securing third-country commitments on readmission and border control – shifts the focus away from developmental assistance and poverty reduction that, in the long term, can be counter-intuitive to third countries' economic development.⁹⁶ Despite these ideas gaining traction among developed or receiving countries, such simplistic approaches are based on unproven assumptions about the links between migration and development, and cannot create a comprehensive and workable framework for international migration management. Although conditionality may be part of the solution, it does not offer a comprehensive one. Instead, these initiatives face a backlash because they lack shared partnership and

95 UNDESA Population Division, International Migration Report 2015: Highlights, ST/ESA/SER.A/375. New York: UNDESA, 2016.

96 Frank M *et al.*, *op. cit.*

ownership among sending countries, and reflect processes that are top-down and imposed on developing countries by their developed country peers.⁹⁷

African state-level participation at the UN's second informal session was minimal, and AU representation was absent altogether

The lack of African participation in the GCM processes to date has raised concerns. African state-level participation at the UN's second informal session was minimal, and AU representation was absent altogether.⁹⁸ This is further complicated by the lacklustre implementation of the AU's *Common Position on Migration and Development* (2006) and the *Migration Policy Framework for Africa* (2006) among African countries themselves. These frameworks are not binding and neither document has dedicated institutional mechanisms for guidance or monitoring compliance. As such, there has been little pressure for AU member states to domesticate and abide by these frameworks, and even those wanting to implement the frameworks are unable to access support and guidance from the AU.⁹⁹ Current attempts to find a common African position for the purposes of the GCM consultations have also been unsuccessful. The 3rd Pan African Forum on Migration held in Uganda in May 2017 failed to provide any concrete results for the African delegates.¹⁰⁰ This lack of continental effort only heightens the necessity for capital involvement and awareness of the GCM,¹⁰¹ particularly as interior ministries are involved in the final decision-making process on migration policies.¹⁰²

There are a number of possible, plausible reasons for African countries' lack of participation. One could be a lack of capacity to attend the meetings, rather than a lack of interest in the subject matter itself.¹⁰³ This is because both the Intergovernmental Authority on Development (IGAD) and ECOWAS¹⁰⁴ discuss migration at regional levels, and IGAD has a Regional Migration Policy Framework in place. Political distrust of the GCM process could be another reason. So, too, could be insufficient clarity on the process, with African countries being unaware of the formalities surrounding the GCM discussions, particularly the non-binding nature of the discussions, which is different from the usual UN negotiations of protocols.¹⁰⁵

97 Castillejo C, 'The EU's Response to the "Refugees Crisis": One Year after the Valletta Summit'. Bonn: DIE (German Development Institute), 2016, <https://www.die-gdi.de/en/the-current-column/article/the-eus-response-to-the-refugees-crisis-one-year-after-the-valletta-summit/>; <https://www.die-gdi.de/en/research/refugees-and-displacement>, accessed 12 June 2017 (restricted access).

98 The author's personal observation in the session.

99 Achiume ET & LB Landau, 'The African Union Migration and Regional Framework', Policy and Practice Brief, 036. Durban: ACCORD (African Centre for the Constructive Resolution of Disputes), 2015.

100 Personal interview, Mexican representative, *op. cit.*

101 Personal interview, UN representative, New York, 24 May 2017.

102 UNGA, *Report of the Special Representative of the Secretary-General on Migration*. Seventy-first session: agenda items 13, 21, 117, Resolution A/71/728A/71/728, 3 February 2017.

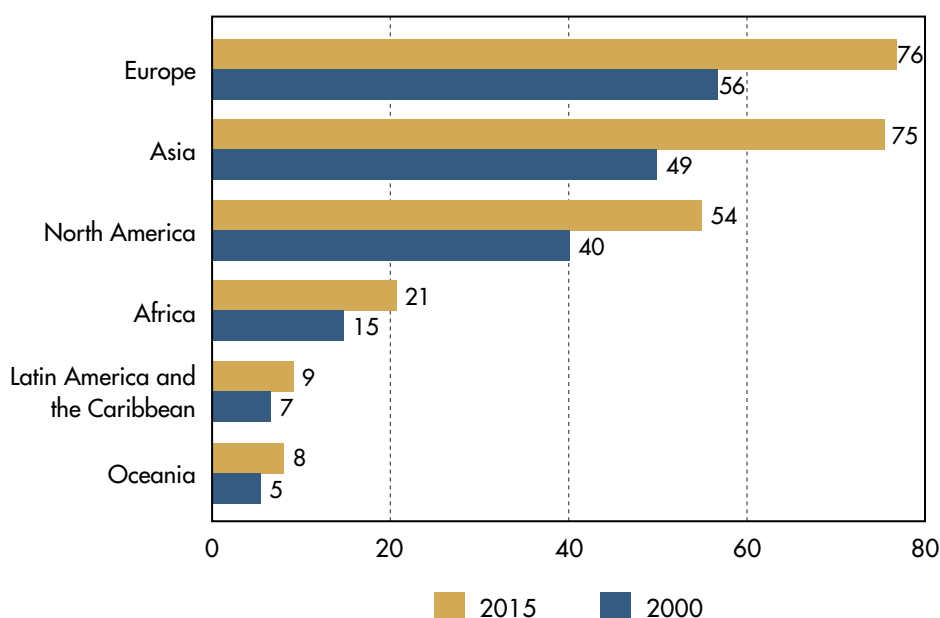
103 Personal interview, German representative to the UN, New York, 23 May 2017.

104 IGAD is a trade bloc that includes governments from the Horn of Africa, Great Lakes region and Nile Valley. ECOWAS is a West African REC.

105 Personal interview, UN representative, *op. cit.*

It could also have something to do with the actual numbers of migrants in Africa itself. Africa, comparatively, hosts smaller numbers of migrants (compared with refugees), ranking fourth after Europe, Asia and North America. These numbers are likely to change as more African countries move up the income ladder. However, the majority of African governments appear unconcerned that the largest migration trends occurring in the near future could potentially be intra-African migration among lower- and middle-income countries. This makes their involvement in the GCM all the more important, given their future stakeholder interests.

FIGURE 6 INTERNATIONAL MIGRANTS BY MAJOR AREA OF DESTINATION (MILLIONS), 2000 AND 2015



Source: UNDESA Population Division, International Migration Report 2015: Highlights ST/ESA/SER.A/37, 2016

The negative impact on African countries through non-participation in the Migration Compact

As the world moves towards the fourth industrial revolution, there is, as yet, little idea of how this will affect both jobs and migration. With 200 million people aged 18–24, Africa has the highest youth population in the world.¹⁰⁶ More than half of global population

106 Ighobor K, 'Africa's youth: A "ticking time bomb" or an opportunity?', *Africa Renewal Online*, 2013, <http://www.un.org/africarenewal/magazine/may-2013/africa%E2%80%99s-youth-%E2%80%9Cticking-time-bomb%E2%80%9D-or-opportunity>, accessed 12 June 2017.

Participating in shaping the contents of the GCM will afford African countries the crucial opportunity to critically inform the international rules governing remittances, return policies, social benefits, employment opportunities and many other issues that will directly affect their citizens

growth between now and 2050 is predicted to occur in African countries – an increase of 1.3 billion African people.¹⁰⁷ Ensuring that they are afforded educational and employment opportunities requires financial investment from governments and long-term strategies. African governments face a real challenge in ensuring the availability of adequate jobs, access to quality education, and opportunities for their young adults. This has resulted in up to 38% of sub-Saharan African youth indicating their willingness to permanently immigrate to another country.¹⁰⁸ Participating in shaping the contents of the GCM will afford African countries the crucial opportunity to critically inform the international rules governing remittances, return policies, social benefits, employment opportunities and many other issues that will directly affect their citizens. Participation is critical because it gives African countries the opportunity to engage on an equal footing with developed countries on migration issues that will have a direct impact on African citizens in the years to come.

There is also the question of leadership on the part of the AU, and who will negotiate these issues on behalf of African nationals to ensure that their concerns are also heard. The AU does not have formal negotiating mechanisms to build consensus and negotiate on behalf of its member states. It receives financial assistance from the EU for many of its projects, despite EU support for the AU's financial independence.¹⁰⁹ This raises questions about the AU's ownership of projects and processes, and puts it in a precarious position to make demands on EU member states that might be in African citizens' best interests. The AU's ability to implement continental measures targeting the freer movement of people has also been stifled by African states themselves. Many countries, including Eritrea and Sudan, have signed bilateral agreements with European countries that commit them to tightening their border controls, implementing biometric screening and preventing freer movement of people altogether.¹¹⁰ Mali hosts nine border control projects by the EU as part of its EUR 50 million (approximately \$44 million¹¹¹) G5 Sahel Joint Force project to 'help increase security and boost cross-border cooperation in the region'.¹¹² As such, African states are complicit in undermining their own participation in these issues at an international level simply because they have committed themselves to agreements that reduce their voice within multilateral forums and undermine their citizens' future mobility.

107 UNGA, Report of the SG, Document A/70/59, *op. cit.*

108 This is based on 2015 figures. ILO, 'Youth unemployment challenge worsening in Africa', Press Release, 24 August 2016, http://www.ilo.org/addisababa/media-centre/pr/WCMS_514566/lang--en/index.htm, accessed 12 June 2017.

109 Parshotam A & D Helly, 'South Africa, Europe and Africa: Building Bridges across Barriers?', Briefing Note, 88. Maastricht: European Centre for Development Policy Management, 2016.

110 Landau LB & C Kihato, *op. cit.*; Prediger S & F Zanker, 'Europe's migration "partnerships" with Africa need a new direction in 2017', *The Conversation*, 22 December 2016, <http://theconversation.com/europes-migration-partnerships-with-africa-need-a-new-direction-in-2017-70695>, accessed 25 July 2017.

111 Based on exchange rate on 5 June 2017.

112 EU External Action, 'Mali: Action and progress under the migration partnership framework June 2016–June 2017', https://eeas.europa.eu/sites/eeas/files/factsheet_work_under_partnership_framework_with_mali.pdf.

If the AU is unable to offer clear leadership to African countries to steer discussions and raise issues affecting African nationals, the direct involvement of African member states in the GCM process becomes all the more important for ensuring a well-balanced document that reflects varied viewpoints and commitments. The absence of strong political leadership in Africa and lack of cooperation between its RECs, together with some African states' desire to limit intra-African migration themselves, means that African countries will probably be unable to resist an outcome to the GCM that would only favour the EU position.¹¹³ The implications for the Global Compacts process, at this level, are significant. The process offers developing countries the opportunity to ensure that their citizens' concerns are adequately reflected and catered for in future migration management frameworks. For African countries the absence of a successful GCM with strong support from a wide range of countries and other stakeholders will probably result in the further bifurcation of the migration governance and rules of play as the likelihood of increased bilateral migration agreements between the EU and African countries will grow, as will the further conditioning of EU development assistance for stricter border controls and reduced numbers of African migrants to EU shores.

These events help to explain why the African standpoint is conflicting and remains unclear during the GCM's Phase I consultations. Nevertheless, the fluid nature of the GCM provides states with the opportunity to talk frankly and openly about their differing perceptions, challenges and concerns, without binding themselves (as yet) to a particular set of commitments. Without this, talks run the risk of deadlock at a very early stage.¹¹⁴

RECOMMENDATIONS FOR ENSURING A SUCCESSFUL MIGRATION COMPACT

This section discusses critical provisos that the Migration Compact process should address if it is to deliver solutions to the challenges facing international migration management.

Clearly define migrants and the situations that give rise to migration.

As discussed, although refugees are defined in international law, the definition of a migrant is far more opaque,¹¹⁵ and there are differing interpretations among UN members of what well-managed migration means.¹¹⁶ Despite overlapping of the Migration and Refugee Compacts in key areas such as addressing root causes, combatting xenophobia and providing for inclusion in national development plans,¹¹⁷ it is important to avoid conflating refugees and migrants. However, finding a definition that satisfies all UN members will be difficult because countries have competing interests that will in turn affect how migration and migrants are defined in the GCM process. For example, sending countries may not want clarified definitions, as current blurred distinctions afford

African states are complicit in undermining their own participation in these issues at an international level simply because they have committed themselves to agreements that reduce their voice within multilateral forums and which undermine their citizens' future mobility

113 Landau LB, *op. cit.*

114 Personal interview, UN representative, *op. cit.*; Personal interview, Mexican representative, *op. cit.*

115 McAdam J, *op. cit.*

116 UNGA, *Report of the Special Representative of the Secretary-General on Migration*, *op. cit.*

117 McAdam J, *op. cit.*

them opportunities to engage in negotiations surrounding re-admission and securing concessions from host countries;¹¹⁸ and, perversely, migrant smuggling and remittances may be important sources of income for certain stakeholders in sending countries.¹¹⁹

In view of growing mixed migration flows, it is essential to clearly define migrants as distinct from refugees and afford these migrants adequate protection and socio-economic rights. This is especially important for vulnerable groups of migrants who do not qualify for refugee status under the Geneva Convention. It is a pressing issue that the GCM must address if it is to succeed as a long-term framework for migration management. The GCR process has been closely shielded for fear of losing the already-small gains in favour of this vulnerable and increasingly narrow group of individuals. As such, the real battle centres on who represents a migrant, and what these qualities entail. Should the GCM process prove to be unsuccessful, there is a real chance that migrant rights will be compromised in an effort to protect refugee rights.¹²⁰ Much of the GCM's success hinges on whether UN members are able to agree on a commonly shared vision of what responsibility sharing entails and what an international migration management framework should look like. There is pressure to achieve significant results – or else the Global Compacts process will reflect yet another lost opportunity to tackle this subject. It is in this context that the informal grouping called ‘Friends of Migration’¹²¹ is trying to garner support for the GCM process and facilitate increased and diversified participation in discussions among UN members.¹²²

Clearly define the Migration Compact's parameters, the issues/topics it intends to cover, and whether it intends to establish binding minimum requirements by which UN members should abide.

The exact scope of the GCM remains undefined.¹²³ Paragraph 8 of Annex II of the NY Declaration provides an ambitious range of focal issues for potential inclusion in the GCM,

118 Personal interview, EU representatives, *op. cit.*

119 Frank M *et al.*, *op. cit.*

120 Personal input to research, ACMS researcher, *op. cit.*

121 ‘On 21 October 2016, an event focusing on the process to develop the GCM was organized by the government of Bangladesh. Bangladesh and other governments expressed their determination to form and meet as a Geneva branch of the government “Friends of Migration” group that had been launched by Bangladesh, Benin, Mexico and Sweden in New York ahead of the 19 September UNGA High-level Summit for Refugees and Migrants’. See MADE (Migration and Development Civil Society Network), “Friends of Migration” meeting organized by GFMD chair’, 28 October 2016, <http://www.madenetwork.org/latest-news/friends-migration-meeting-organized-gfmd-2016-chair>, accessed 15 October 2017.

122 Personal interview, UN representative, *op. cit.*

123 Paragraph 8 refers to, *inter alia*, issues relating to international cooperation; remittances; potential opportunities for migrants and their families; trafficking; international cooperation for border control; protecting vulnerable groups; combatting discrimination and xenophobia; and regional cooperation.

but its ability to cover all these points is not guaranteed because issues for inclusion will depend largely on member-state support. The call for ‘orderly, safe, regular and responsible migration’ also requires greater clarity and definition before it can be implemented.¹²⁴ States’ ability to designate clear parameters for the contexts and meanings within which this can occur will largely determine whether there is sufficient uptake of the GCM to become binding in the long run. The GCM needs to cater for enhanced international migration governance and also develop new norms on the protection of migrants – something that has been sorely lacking to date.¹²⁵

Ensure that the Migration Compact is able to deliver results through the practical implementation of global governance framework for migration.

Practical applicability is another key issue,¹²⁶ and the extent to which the GCM will be able to provide practical solutions for enhanced migration management. Failing this, the compact is likely to be yet another document that establishes normative values and guidelines for what ‘ought’ to be achieved in managing migration flows. There is a dire need for the GCM to translate aspirations into concrete policy recommendations addressing key issues that include respect for labour standards, fair recruitment, skills recognition and portability of social security rights.¹²⁷ To ensure uptake of the policy recommendations, however, accountability requirements and mechanisms will be essential for ensuring that member states abide by the contents of the future GCM.¹²⁸

A key way in which the GCM can forge new standards for migration cooperation is to develop a blueprint for regional cooperation on migration. For this to happen responsibility sharing is essential,¹²⁹ together with fostering a positive narrative of migration and the social and economic gains that migrants can bring to their host countries. The blueprint would also have to include implementing a system that works well for the foreseeable future. This will require investment in infrastructure from all involved parties.¹³⁰ The GCM needs to strike a balance between states’ rights to control their borders and ensuring protection mechanisms for mixed migration flows.¹³¹ Although there is an undeniable link between border management, security issues and migration management, reversing the negative narrative on migration and removing the conflation of migration with only security issues are critical for developing a migration management framework that reflects the successes and complex nuances in large-scale mixed migration flows.

124 UNGA, *Report of the Special Representative of the Secretary-General on Migration*, *op. cit.*

125 McAdam J, *op. cit.*

126 *Ibid.*

127 Personal interview, ILO representative, New York, 22 May 2017.

128 Personal interview, Centre of Migration Studies of New York representative, *op. cit.*

129 Personal interview, German representative to the UN, *op. cit.*

130 Personal interview, Open Society Foundation representative, *op. cit.*

131 Personal interview, Centre of Migration Studies of New York representative, *op. cit.*

Incorporate financial incentives for states and involve the private sector to assist with addressing infrastructural requirements necessary for migrant communities.

Given the realpolitik nature of international negotiations, states are also likely to need incentives beyond a humanitarian need to assist migrants.¹³² As migration trends increase for the foreseeable future, the GCM needs to ensure that adequate financing mechanisms are available for host and sending countries. This is especially true for countries that receive large financial benefits from migrant remittances, and which would be more reluctant to cooperate on migration management issues.¹³³ Initiatives such as the UNHCR–World Bank partnership should be extended to receiving and sending migrant countries. There is also a need to include greater private sector involvement, particularly to cater for the infrastructural needs of migrant communities. In this way the GCM could highlight the importance of circular migration practices, study visas, and sectoral visas as tools to facilitate concessional discussions between the Global North and Global South. These initiatives and projects are important because they speak to the changing order of global labour trends, particularly as circular migration becomes a more prominent feature among semi-skilled and skilled labour alike.

Utilise RECs in helping to craft long-term policy solutions to migration flows.

Lessons from past regional initiatives addressing large-scale movements of refugees and migrants can underpin collective efforts to build mechanisms that improve future responses.¹³⁴ There is great potential for RECs to help inform how regional and bilateral cooperation can be best used to craft sustainable and long-term policy solutions for migration flows. Over the years countries have gained greater understanding of migration dynamics and have showed a greater willingness to discuss migration issues thanks, in part, to successful intergovernmental forums such as the Global Forum for Migration and Development (GFMD)¹³⁵ and their willingness to fund some regional collaboration on intra-regional migration issues. Similarly, RECs can help to ease the North–South tensions present in the current migration discussions,¹³⁶ and provide valuable ways to build trust and capacities¹³⁷ by representing their member states' concerns.

RECs could play an instrumental role in migration and refugee management, particularly by providing these groups with the opportunity to move out of their countries of origin relatively hassle-free to work within the region and improve their economic standing.¹³⁸ To do this, however, they need to avoid being echo chambers of each other by feeding into geopolitical issues (such as securitisation agendas for national borders), that detract

132 Personal interview, HIAS (Hebrew Immigration Aid Society) refugee representative, New York, 23 May 2017.

133 Frank M *et al.*, *op. cit.*

134 UNGA, Report of the SG, Document A/70/59, *op. cit.*

135 UNGA, *Report of the Special Representative of the Secretary-General on Migration*, *op. cit.* The GFMD is a voluntary, informal, non-binding, government-led process to advance understanding and promote regional cooperation on issues of migration and development.

136 Ferris E, *op. cit.*

137 UNGA, *Report of the Special Representative of the Secretary-General on Migration*, *op. cit.*

138 Personal interview, migration and mobility representative, Zolberg Institute, *op. cit.*

from the creation and implementation of a global governance framework for migration.¹³⁹ Currently, the IOM shares memorandums of understanding with a variety of RECs through its regional consultative processes (RCPs) on migration. Relations are formal only in procedure, and have not, to date, had their discussions on migration fed formally into consultation procedures.¹⁴⁰ This is set to change, as the RCPs have been requested to make inputs into the GCM,¹⁴¹ paving the way for them to provide an understanding of both potential solutions and challenges facing RECs as they seek to find solutions to migration flows within their own regions. Processes between the EU and African countries, such as the Rabat and Khartoum processes, could also offer valuable insights into how the GCM engagement could unfold,¹⁴² particularly as templates for understanding how compromises could be reached between the Global South and the Global North. The special representative can play a vital role in this regard, by consulting with REC chairs to gain a better understanding of the migration challenges at a regional level.¹⁴³

Create a forum for African countries' participation.

Facilitating a special outreach to African governments could greatly encourage their participation in existing debates and help to engage with African countries at a continental level beyond existing initiatives (such as the Valetta Summit). IOM involvement could be instrumental in coordinating and facilitating such discussions, particularly given the organisation's deep involvement with RECs in their respective forums. A multi-level approach may be necessary in terms of engaging individual countries, RECs and the AU, which could be useful in understanding region-specific challenges and country-specific contexts. Such a discussion should also focus on mobility in the future world of work, particularly global trends towards circular migration, and mobility of skills. In this way all involved parties can begin to reframe the conversation in a more positive manner, and remove the negativity currently surrounding labour mobility and economic migration.

CONCLUSION

The GCM can only succeed if states want to find workable solutions. The private sector, CSOs, states, and host communities all need to be a part of the solution, and governments should be committed to make concessions for the greater good. This includes making firm commitments on re-admission, actively seeking out developing countries' participation, implementing a financing facility to assist states with hosting migrant communities, and ensuring that global dialogues through forums such as the GFMD continue. Only through commitment and a willingness to have difficult conversations will the Global Compacts amount to more than just a wish list among UN members. The need for African leaders to be actively involved in a process that will have a direct impact on their citizens cannot be understated. For their involvement to become a reality, there is a need for ensuring

139 Personal interview, Mexican representative, *op. cit.*

140 Personal interview, IOM representative, *op. cit.*

141 *Ibid.*

142 Personal interview, Open Society Foundation representative, *op. cit.*

143 Personal interview, UN representative, *op. cit.*

regional engagement, pooling resources, understanding regional-specific and continental challenges, and finding ways in which compromises can be struck to achieve a broader goal of migration management that, ultimately, does not disadvantage African nationals. Frank discussions must be held between African leaders and their development partners in the confines of the GCM discussions. The next few months will show whether the GCM proves to be a success, or whether it amounts to yet another shop-talk session among UN member states. Migration is finally on the UN negotiation table, and states should not let this opportunity go to waste: a comprehensive and forward-looking migration management framework is urgently needed.

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