

Facilitating Human Mobility: A long-term strategic choice

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Migrants' precarity is "constructed"

Pull factor: Migrants, including asylum seekers, **come because of a labour market**

- Underground, temporary or regular
- Migrants do not go where there are no jobs
- **Create a future** for themselves and their family

Competitiveness of several industries rests on "**cheap labour**":

- **Non-delocalisable** sectors with **low profit margins**: agriculture, care, construction, extraction, fisheries, hospitality ...
- **Well-known and poor oversight**

Combination of migration and labour policies:

- Shape **dangerous employment relationships**
- Based on **precarity of status** and **fear of return**
- Employer can decide of migrant's and family's life course
- Little options: migrants must accept working conditions: debt, family duties...

Precarity is bolstered by irresponsible political discourses

Electoral **democracy cannot represent migrants**: Do not vote, are not elected

- “Complicity of the centre” (Catherine Woollard, ECRE)

Migration policies: **made by non-migrants for non-migrants**

Based on **nationalist populist myths, stereotypes, fantasies, threats**:

- **constructed and uncontradicted**: unemployment, crime, illnesses, insecurity...
- **Asylum seekers** are particularly targeted: “self-selected”, would-be terrorists...

Use of “**Liquid**” **language**: *flows, waves, tides, deluge, floods, trickling, streaming, swelling, pouring, seeping, pooling, containing, tsunami...*

- Stereotyped as anonymous threatening mass without individuality
- **European leaders’ reaction to Afghan refugees** is clear: **no repeat of 2015!**

Use of **criminal law language, standards, institutions** in an administrative law context, with lower procedural and evidentiary guarantees: “**crimmigration**”

Migrants' precarity is policy-induced

➤ Strategy to reduce labour costs

Policies against **undocumented migration**:

- Knowingly **blocking low-wage migrants *despite* clear unacknowledged labour needs**
- Repression **silences** undocumented migrants and pushes them further underground
- **Prohibition creates, entrenches and subsidises underground markets**: smuggling rings, unscrupulous recruiters, exploitative employers, greedy lodgers...

Temporary labour migration programs with precarious status :

- **Single-employer** temporary status: Kafala, sponsorship...
- **Standards not applied**: domestic workers...
- **Inspections absent**: undocumented workers...
- **Unionisation** is discouraged or prohibited
- **Protesting** is punished: return, blacklisting...

Asylum seekers also face precarity: often **pushed underground**

- Many are **unrecognised** or have **no right to work** - Others have a **limited right to work**

Migration is in the DNA of mankind

Normal coping mechanism

Migration pressure will not abate

The more we repress migrants

The more we disempower them

The more we empower mafias to exploit
them

2018 Global Compact for Safe, Orderly and Regular Migration

- **Negotiated by States** and **approved by 153 UNGA MS**
- **Negotiated by civil servants and diplomats**, in consultation with experts, IOs, CSOs and academics.
- Politicians reacted very late, often based on electoral pressure
 - USA, Hungary, Israel, Czech Republic and Poland voted against it. 12 abstentions.
- Creates a **conceptual framework**, a **critical path** for the next decades
- Often suggests **the contrary of many States' practices**
- Soft Law: Long term influence / No short term results
 - Just like the *1948 Universal Declaration of Human Rights*

CENTRAL RECOMMENDATION: « FACILITATE » MOBILITY (62 times)

Most States insist on repression

Three GCM objectives show States will need repression:

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*

Other commitments aim at reducing repression against migrants by facilitating mobility

- 5. (21) Enhance availability and flexibility of **pathways for regular migration**
- 5. (21i) Facilitate family reunification: **right to family life**, best interests of the child
- 6. (22) Guarantee fair and **ethical recruitment** and **decent work**
- 6. (22g+23h) Facilitate change of employer and **transition between statuses**, without fear of arbitrary expulsion
- 7. (23i) Facilitate **regularisation** of status
- 7. (23j) Include migrants in **crisis preparedness**, emergency response and post-crisis action

Other commitments aim at reducing repression against migrants by facilitating mobility

13. Use immigration **detention** only as a measure of **last resort** and work towards **alternatives**
15. (31+31b) Ensure that **all migrants, regardless of their migration status**, have safe access to **basic services**, including through implementing “**firewalls**”
16. (32) Foster inclusive and cohesive societies by “**empowering migrants**” and minimizing disparities
17. (33) Promote an open and evidence-based **public discourse** on migration that generates a more realistic, humane and constructive **perception**
18. (34) Facilitate **mutual recognition of skills** of migrant workers at all skills levels

Blind spots in the GCM

- **Nothing specific about refugees and asylum seekers (GCR)**
- **Privacy rights for migrants?**
- **Access to justice and to accountability mechanisms?**
- Reducing migration by creating jobs in countries of origin?
- Information on « dangers » of migration?
- **Downplayed issues: gender, cities, ILO...**
- **“Working to end the practice of child detention”**
- No mention of **exploitative labour markets** in host countries
- **Weak follow-up mechanisms**

The way forward

Long-term strategic planning of mobility, integration, diversity policies

- Twenty, thirty, fifty-year planning – like we do for energy, infrastructures, transports, healthcare, education
- Sustainable development: policies need to be **inclusive, integrated, resilient, transversal**
- Include **all departments and stakeholders, not only ministers of Interior**

Progressively allowing **more migrants to come look for work**

- Develop **visa facilitation and liberalisation** regimes
- Aim at an **open and regulated movement** back and forth across borders
- Ultimate objective: making mobility **easier, safer, cheaper, faster**
- What free-movement zones aim at: **EU, AU, ECOWAS, SADC, Southern Cone**

GOVERNING MIGRATION: LEGALIZING, REGULATING, TAXING MOBILITY

The way forward

Key Condition: **Reduce migrant precarity**

- **Regularise** to take migrants **out of underground**
- Apply **labour law to ALL workers**: difficult in informal economy
- Implement **labour inspections and employer sanctions**
- **Integrate** migrants (pay taxes...): fight stereotypes
- Facilitate **access to permanent residence** and nationality

International **cooperation is essential**:

- Create **common approaches**, particularly at regional level
- For: labour needs, freedom of movement, emergency responses...
- **Avoid imbalances** and crises: **emergency preparedness**

The Way Forward

Replace prohibitionist “**zero-tolerance**” policies by “**harm-reduction**” policies: as for alcohol and drugs:

- **Reduce pressure on refugee determination** systems
- **Reduce the power of criminal networks: Prohibition breeds crime**
- Enhance the capacity to **control border crossings**
- **Not scifi: 50s, 60s**

Opposite of what most host countries are doing, as they increase repression at borders without facilitating mobility

The GCM is a **first step**

- Initiating multiple long-lasting conversations btw actors
- Like UDHR: **creating a “culture of human security” for all migrants and for host societies**