

15th Coordination Meeting on International Migration

Panel on

The global compact on migration: Regional and human rights dimensions

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The Empowerment of Migrants as Key to any Long Term Strategic Planning on Migration Policies

FRANÇOIS CRÉPEAU

Excellency,

Ladies and Gentlemen,

Dear Friends,

I thank DESA for the invitation. I've always enjoyed the annual coordination meeting and its progressive expansion is very encouraging indeed.

1. The legitimacy of migration policies will depend on their consonance with human rights

How the HRM will be protected will be central to the legitimacy over time of any migration policy, at whatever level of governance.

Two examples:

- Under sponsorship systems of temporary migrant worker programmes, migrants often suffer from the enormous power that recruiters, landlords and employers can wield over all aspects of their lives. Many equate this to modern slavery. This must change.
- The detention of undocumented migrants is rarely used as a “measure of last resort”, as it should under international law, and it has not proven to be effective as a deterrence for undocumented migration, as claimed by too many politicians. Especially regarding children: there's a growing consensus that detention for migration purposes can never ever be in the best interest of any

child and is always a violation of their rights. This must also change.

Governance of migration will need to be framed within the human rights architecture at domestic and international levels.

This already happens at national level in many countries which have placed the human rights of all at the top of their constitutional normative order. It is also what happens at regional level when regions have adopted a regional HR normative framework and implementation institutions.

Global migration governance will not escape such legitimacy issues and it needs to also structure itself in accordance with the universal human rights framework.

This is well recognised in the NY Declaration, which uses the human rights language very liberally, and also in the Modalities Resolution.

Discussing the human rights of migrants is not taboo anymore, in public discussions and multilateral fora, in great contrast with only seven or eight years ago.

But implementation on the ground – which has been stressed this morning as a key objective of the GC – is still sorely lacking.

2. The need for a long-term strategic planning on migration and mobility

This implementation will not happen overnight.

Migrants have no say in the political debates on migration policies and, unfortunately, politicians have little incentive to catering to the rights and interests of people who are politically non-existent, especially when you can lose an election because of it.

Moreover, migrants in a precarious situation, such as TMW or undocumented migrants, rarely complain, mobilise, organise, protest or go to court, for lack of political capital and for fear of being sent back home, thus losing everything that has been invested in their migration journey, often by their family and community, whom they support.

As I said in my report to the GA last October, what's most lacking is long-term strategic planning on migration and mobility. Ms. Nakamitsu reminded us of the then HC Gutierrez' words when he stated that the international community did not have a strategy on human mobility.

States do such strategic planning for policies on energy, the environment, food security, public transit or industries, in order to determine the investments needed to achieve the goals. Why aren't we doing it for mobility and migration policies, for which the policy time line always seems to be "now": "stopping migration now", "sending back migrants now", "bringing in technicians now"?

In my next June report to the HRC, which will be made available early May, I'll suggest that the GCM could be the starting point of a 15-year agenda, parallel to the SDG Agenda, containing a series of goals, targets and indicators spread over 15 years, with benchmarks and monitoring mechanisms.

The golden thread would be the implementation of:

- SDG target 10.7 (facilitate orderly, safe and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies) and
- SDG target 8.8 (protect labor rights and promote safe and secure working environments of all workers, including migrant workers).

3. Implementing the commitment to facilitate migration and mobility

We need a roadmap to get to a better implementation of the HR and labour rights of migrants.

"Facilitating" means "making easier" as well as "making more effective".

Facilitating mobility does not mean diminishing border controls and diluting migration governance. On the contrary, the objective should be increasing them through easily accessible visas of all kinds, visa liberalisation and facilitation schemes, electronic travel authorisations,

which would allow for all security and other controls to be operated where they are most useful.

Migrants do not wish to use smugglers, they do it for lack of other regular, safe, accessible and affordable mobility options. The idea is to incentivise migrants to go through regular channels because those channels are made available to them. Most people will wait in line if there is an opportunity of accessing regular mobility solutions within a reasonable time. “Fighting the smugglers” only goes some way: taking over from them the mobility market would be much more efficient.

Also, working strenuously to reduce underground labour markets, which constitute a major pull factor of exploited migrant workers and one key trigger of smuggling markets, will be a difficult but essential task. We need to transition such underground labour markets into some shape of formal economy, as suggested in ILO Recommendation 204 of 2015.

Free movement of persons zones should be supported and expanded and interconnected. They have sprouted on almost all continents and we need to consolidate them, make them more effective for the economic and social benefit of all, migrants and citizens.

A 2033 Agenda for facilitating human mobility – or whatever name we would care to give it – would provide direction and meaning to all our efforts to create a principled governance framework for international migration and mobility.

Just as Michael Doyle explained how the Millenium Development Goals came to be, choosing a small number of achievable goals would allow us to make progress over a number of years, paving the way for a second phase which would be more ambitious, exactly as the SDGs are more ambitious than the MDGs were.

4. The key will be in the effective empowerment of migrants

The most important tool for protecting the rights of migrants is to empower them to defend their own rights.

Actually, nothing else has ever worked for politically marginalised groups in societies. Women, industrial workers, indigenous peoples and

persons with disabilities, to name only those, know that: only when they started speaking up, demanding equal citizenship, were they heard on the political stage and only then did the stereotypes and the policies started to change.

Migrants will not, in the foreseeable future, be able to claim equal citizenship. And, unless they show political courage and moral leadership, as Peter Sutherland calls them to do, politicians will not feel much electoral pressure to do the right thing.

But many tools can be put in place which would help migrants make their voice heard:

- Unionisation of migrant workers, alongside other workers, would provide them with a platform to protect their rights and make their voice heard.
- Firewalls between public services and immigration enforcement allow, at the same time, public services to accomplish their mission without interference from extraneous considerations, and migrants to contact those public services without fear of being denounced, detained or deported. This is particularly important for services such as schools, public health, labour inspections and the local police.
- Access to justice for migrants will also be key, in all its shapes and forms: courts and tribunals, NHRIs, ombudspersons, labour arbitration, and all other dispute resolution mechanisms. Ending the practical impunity of all those who exploit migrants in a precarious situation is essential, and easing migrants' access to redress mechanisms would go a long way towards reducing such impunity.
- Cities should be provided with the powers and resources needed for the integration of migrants, whatever their status. They are best placed since migration is most often an urban phenomenon and municipal authorities are close to the needs and interests of all their communities. They already have developed excellent practices and have shown leadership.

Conclusion

All in all, the process leading to the GCM needs to provide us with a number of practical measures that enhance the effective governance of migration as well as the protection of migrants' human and labour rights. The proposals in SRSG Sutherland's report are essential and if half of them were fully implemented, great progress will have been made.

But it should also outline, for populations of all countries and for their politicians, a long-term vision and an inspiring narrative – as ambassador Swing said this morning – of how well-governed and human-rights based migration will contribute to the prosperity and stability of our societies.

Let's get to work.

Thank you.