

Assessment of The Global Compact on Safe, Orderly, and Regular Migration

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Introduction

On December 19, 2018, world leaders convened in Morocco to sign The Global Compact for Safe, Orderly, and Regular Migration (GCM) in a historic attempt by the United Nations to create international standards for migration. The first agreement of its kind, the GCM articulates the commitment of all signatory member states to reform and enhance the governance of migration¹. Adopted by 152 UN member states², the compact highlights a widespread call for more effective management of migration worldwide.

This agreement is ambitious and complex³. Laying the basis for groundbreaking international cooperation on migration, the compact articulates a vision with two foundational elements: reducing factors that create a need for emigration while simultaneously amplifying the positive consequences migration can create for the individuals, communities, and countries involved. The nature of contradiction present in this vision is mimicked in the compact's attempt to balance the protection and assurance of human rights of individuals, particularly migrants, with the desires of states⁴. In doing so, the compact recognizes that government prerogatives and capabilities differ, thus it establishes standards that are adaptable where possible without straying from the fundamental vision and guiding principles.

Key Elements

The Global Compact on Safe, Orderly, and Regular Migration is an agreement which includes a large degree of commitments, laid out in detail across 23 objectives. The objectives are as follows: (1) Collect and utilize accurate and disaggregated data as a basis for evidence-based policies (2) Minimize the adverse drivers and structural factors that compel people to leave their country of origin (3) Provide accurate and timely information at all stages of migration (4) Ensure that all migrants have proof of legal identity and adequate documentation (5) Enhance availability and flexibility of pathways for regular migration (6) Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work (7) Address and reduce vulnerabilities in migration (8) Save lives and establish coordinated international efforts on missing migrants (9) Strengthen the transnational response to smuggling of migrants (10) Prevent, combat and eradicate trafficking in persons in the context of international migration 6

(11) Manage borders in an integrated, secure and coordinated manner (12) Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral (13) Use migration detention only as a measure of last resort and work towards alternatives (14) Enhance consular protection, assistance and cooperation throughout the migration cycle (15) Provide access to basic services for migrants (16) Empower migrants and societies to realize full inclusion and social cohesion (17) Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration (18) Invest in skills development and facilitate mutual recognition of skills, qualifications and competences (19) Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries (20) Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants (21) Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration (22) Establish mechanisms for the portability of social security entitlements and earned benefits (23) Strengthen international cooperation and global partnerships for safe, orderly and Regular Migration⁵.

Overall, the GCM details a comprehensive approach to migration in all phases and aspects. It addresses root causes of migration as well as the promotion of better labor and recruitment standards and border management. The compact also works to combat trafficking in persons and to promote safer pathways for legal migration in order to protect all migrants, especially those with additional vulnerabilities.

By pledging to uphold the human rights of all migrants, regardless of status, the GCM makes several key achievements in improved migration governance. This is particularly clear in Objective 20, which outlines “the prohibition of collective expulsion and of returning migrants when there is a real and foreseeable risk of death, torture, and other cruel, inhuman, and degrading treatment or punishment, or other irreparable harm, in accordance with our obligations under international human rights law.”⁶ The compact also proposes enhanced pathways for legal migration in Objectives 26 and 27, and it makes specific commitments to address the impact climate change has on migration in Objective 28⁷.

Women and Girls

Consideration of the ways in which the GCM addresses the specific needs of migrant women and girls is crucial in evaluating the agreement. Women and girls face heightened challenges during migration. Existing vulnerabilities related to gender are amplified when women and girls migrate, including in reception and destination sites. Women and girls constitute 98 percent of all sexually exploited victims of trafficking, numbering up to 2 million who are trafficked internationally every year⁸.

The compact clearly and repeatedly focuses attention on gender-responsive migration, in this way aiming to address the specific needs and vulnerabilities of migrant woman and children. It takes a human rights-based approach to migration that is both “gender-responsive” and “child sensitive”⁹. The GCM, therefore, creates an important framework for ensuring gender-responsive coherence between laws and policies on trafficking, labor, and migration¹⁰. Objective 9 – to “Strengthen the transnational response to smuggling of migrants” not only targets an area of migration to which women and girls are especially vulnerable but also includes age and gender-sensitive provisions¹¹. Furthermore, Objectives 5 and 7 attempt to address vulnerabilities and vulnerable populations in migration. Objective 7, committing to “respond to the needs of migrants who face situations of vulnerability,” speaks to addressing the heightened vulnerabilities of women and girl migrants¹². It explicitly states for heightened care for “victims of sexual and other gender-based violence”¹³.

However, the GCM does not discuss specifics about how gender-responsive migration may be achieved and the specifics of what such policies look like. Rather, the compact is supplemented by UN Women’s “Guide to Gender Responsive Implementation of the Global Compact on Migration.” The guide for policy and practice goes through each of the 23 GCM objectives and applies a gendered lens, creating a summary of issues that apply specifically to women and girls. The guide provides an outline of concrete measures countries should take to implement the GCM objectives in a gender-responsive manner that addresses the specific and unique vulnerabilities and challenges of migrant women and girls.

The GCM fails to address trafficking in women and girls in the context of global migration by overlooking several unique vulnerabilities. The agreement does not attempt to address the root causes that heighten the vulnerabilities of women and girls from falling victims to trafficking, and it does not call attention to preventing women and girls who fall victim to

trafficking from being punished. It also does not address increased vulnerabilities in the intersection of multiple forms of discrimination.

Stakeholders

National governments who are member states of the United Nations served as the principal actors in the negotiation and adoption of the GCM. The execution of the compact and the process of its creation, however, engaged a wide and diverse array of stakeholders, as migration is an issue that saturates many aspects of society. Throughout the process of drafting the GCM, the President of the United Nations General Assembly (UNGA) convened a series of multi-stakeholder hearings. These stakeholder hearings created platforms for representatives from non-governmental organizations, civil society and migrant organizations, UN Member States, parliamentarians, and others to be involved in the creation of the compact. Because many different actors had vested interests in the compact, the list of stakeholders present during its formation is extensive. For the purpose of length, this paper only highlights a few of the stakeholders present.

Cities

While the GCM was being drafted and negotiated, several cities and local authorities across the globe partitioned for participation. Despite President Trump's rejection of US participation in the compact, several US cities took the agency to support improved migration governance by partitioning alongside international counterparts¹⁴. Creating the Mechelen Declaration in support of the GCM, more than 150 representatives from local and regional authorities (including over 50 cities) signed an agreement committing to better migration governance¹⁵.

Uniquely positioned as initial receivers of migrants and providers of public services, local governments undertake essential functions in migration governance. Accordingly, the framework provided by the GCM, which outlines the role local governments should take to address issues of migration, provides useful direction and authority communities to address problems in a more focused way. While all of the 23 objectives laid out in the GCM are applicable to local governments, objectives 7, 15, and 16 are particularly relevant because they create a mandate for local government participation in addressing migration, and they call attention to the particular ability of local governments to address specific issues which affect distinct communities. The

explicit mention of local government participation is needed because issues of migration are often exclusively addressed at the national level, leaving cities and communities with little individual agency and incentive to better migration government. Section E of Objective 15, for example, mandates that migrant health needs be addressed by local health policies and health initiatives, giving authority to local governments to address healthcare for immigrants. Furthermore, adding the element of local governmental bodies as valuable stakeholders in the compact provides communities with opportunities to gather and use additional resources to address migration, rather than leaving all responsibilities and resources to the state.

Scholars of Human Rights

Throughout the stakeholder hearings, several scholars spoke about the need to highlight the protection of human rights for all migrants, working to fill gaps left in rights of migrants who are undocumented. Centro de Estudios Legales y Sociales Asociacion Civil Raisa Ortiz Cetra stressed the importance of guaranteeing access to local documentation for migrants¹⁶. Denis Sinyolo from Education International highlighted the importance of education at the core in line with SDGs, stressing that undocumented children continue to be excluded¹⁷.

Addressing the Drivers of Migration

During the Stakeholder hearings, several individuals and NGOs spoke out about addressing the drivers of migration. For example, Alice Thomas from Refugees International spoke on climate change as a driver of migration, pointing out the close to one million people displaced from Somalia due to droughts within a seventh month period¹⁸. Jonathon Cush from the Center for International Governance Innovation (CIGI) made recommendations for food as well as cash remittances to avoid migration out of desperation¹⁹. The Asia Pacific Forum on Women, Law, and Development also pointed to the resurgence of patriarchal governance drives migration²⁰.

Limitations and Objections

Several limitations threaten the effectiveness of the Global Compact on Safe, Orderly, and Regular Migration. Principally, the Compact is legally non-binding. It is not hard international law, and there is no method of enforcement. This calls the potential success of the agreement into question because while countries agreed to the objectives laid out in the compact,

there is no method of ensuring follow through. Furthermore, the strategy for implementation of the compact is vaguely defined, and the GCM does not include specific target dates for achievements or progress by member states. Additionally, states face the uncertainty that any funding will be allocated to build the capacity necessary to implement the objectives in the agreement.

Several UN member states chose not to endorse the GCM, significantly weakening the compact. Five nations voted against it— the United States, Hungary, the Czech Republic, Poland and Israel – and an additional twelve countries chose to abstain²¹. One of the principle reasons countries objected to the compact was out of fear that it would encourage illegal migration. Hungary’s Minister for Foreign Affairs and Trade, Péter Szijjártó, called the Compact a “pro-migration document” that was biased in favor of migration. Countries also expressed concerns over security and sovereignty²². The proposed visa liberalizations within the Compact made several European Nations nervous about lesser control over migrants in general.

Conclusion

The Global Compact on Safe, Orderly, and Regular migration outlines 23 objectives that hope to address widespread challenges associated with migration at all stages. The agreement was created within an important cultural context – amid a backdrop of increasing nationalism, xenophobia, and anti-immigration sentiment within the United States and throughout many other high-income countries. While the treaty is not legally binding and faces multiple setbacks and shortcomings, it marks the vital creation of a framework for better migration governance, thereby calling attention to migration as a problem to be addressed within the international arena. This unprecedented move towards multilateral attempts to address migration is historic and is sure to set the stage for international discussion and cooperation on migration in the decades to come.

¹ “Global Compact for Safe, Orderly and Regular Migration,” (Marrakech, Morocco: United Nations, 2018),

https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf

² The United States and Hungary

³ Brandt, Jessica. *Implementing the Global Compact for Migration: Ideas for City Engagement*. Brookings Institute, 2018,

https://www.brookings.edu/wpcontent/uploads/2018/10/FP_20181019_migration_compact1.pdf

⁴ *ibid.*

⁵ “Global Compact”

⁶ *ibid.*

⁷ *ibid.*

⁸ “Putting the Rights of Migrant Women at the Centre of the Global Compact for Migration.” *UN Women*, 2018.

⁹ “Global Compact,” pg. 17

¹⁰ “CEDAW Half-day general discussion on trafficking in women and girls in the context of global migration” *UN Women*, 22 February, 2019.

¹¹ “Global Compact” pg. 16

¹² “Global Compact” pg. 14

¹³ “Global Compact” pg. 30

¹⁴ Allen-Ebrahimian, Bethany. “U.S. Cities Want to Join U.N. Migration Talks That Trump Boycotted.” *Foreign Policy*, Foreign Policy, 5 Dec. 2017, foreignpolicy.com/2017/12/05/u-s-cities-want-to-join-u-n-migration-talks-that-trump-boycotted/.

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- ¹⁵ Biron, Carey L. “New Migration Accord Recognizes Key Role of Cities.” *Reuters*, Thomson Reuters, 8 Dec. 2018. www.reuters.com/article/us-un-migration-cities/new-migration-accord-recognizes-key-role-of-cities-idUSKBN1O70A0.
- ¹⁶ Risee, Nathalie. “Stakeholders Discuss Migration Compact During First Hearing | News | SDG Knowledge Hub | IISD.” *SDG Knowledge Hub*, ISSD, 2018, sdg.iisd.org/news/stakeholders-discuss-migration-compact-during-first-hearing/
- ¹⁷ *ibid.*
- ¹⁸ *ibid.*
- ¹⁹ *ibid.*
- ²⁰ *ibid.*
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- ²² Gotev, Georgi. “Nine EU Members Stay Away from UN Migration Pact.” *Euractiv.com*, EURACTIV.com, 20 Dec. 2018, www.euractiv.com/section/global-europe/news/nine-eu-members-stay-away-from-un-migration-pact/