

GMPA

Global Migration Policy Associates

*An International research, policy development,
advisory services and advocacy group*

EIUC GLOBAL SEMINAR

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

VENICE

28 July 2014

Migrants rights, International Conventions and the Rights Based Approach under Assault

Discussion paper by Patrick Taran

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) is one of the most comprehensive and advanced human rights instruments ever elaborated. It remains the symbol of the expansion and extension of full human rights protections to groups and populations most at risk of denial of their human rights. It continues to affirm for all migrants that, whatever their circumstances, they are recognized as persons, entitled to the respect for and realization of all their basic human rights. And that those in recognized situations are entitled to full equality of treatment and non-discrimination in virtually all aspects of work, civic and community life.

Yet despite, rather because of, the universal human rights symbolism and content of the Convention, its relevance, wider ratification, and implementation are under assault today. The contemporary validity of this Convention and its complementary predecessor ILO instruments are explicitly called into question, even by parent UN institutions. The Convention and its promotion are explicitly excluded from the agendas of main intergovernmental forums on international migration. Discourse promoting limitations on rights protections for migrants in favour of purported economic and development benefits of “numbers versus rights” are given wide prominence, often with specific problematized reference to the ICRMW. In an unprecedented gesture, a major group of Western states called last September for setting it aside in an official submission to the UN General Assembly. Promotional efforts, including by civil society, have dissipated over the last three years.

Frighteningly, exploitation, abuse and hostility towards migrants translating into non-respect if not outright violations of migrants rights appear to be on the increase worldwide, with virtually no country and certainly no region excepted. Regional and national human rights observers across Europe, in Africa, the Americas, Asia and Eurasia report increased manifestations of often violent xenophobic hostility towards non-nationals. While anecdotal evidence abounds of serious violations of rights of migrants in workplace contexts in all regions, virtually no data is available anywhere on migrant deaths, accidents, injuries and illnesses occurring in workplaces, despite occasional reports or figures that suggest that worldwide, monthly tolls are in the thousands. Meanwhile, public discourse and policy discussion is manifestly punctuated by, simultaneously, anti-migrant rhetoric and generalized assertions that migrants are not rights holders, much less entitled to equality of treatment and non-discrimination. Simultaneously, the descriptive discourse of concerned institutions echoing that of economic actors has undergone a fundamental shift, to one of citing migrants first and foremost as

economic actors, sometimes “heroes of development,” subsequently referring to the fact of their humanity and consequently rights holders. This conceptual framing inversion reinforces valuation of migrants in terms of their contributions to economic activity and development, ultimately undergirding what some refer to as *evidence based* approaches that measure rights according to economic references, such as “earned regularization” or *rights versus numbers*.

In sum, the rights based approach to governance of migration and its flagship normative instrument, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families are under global assault. Ideologically, politically and economically.

We cannot effectively assure protection and dignity for migrants, in particular by obtaining wider implementation of the Conventions on migrants, if we don't deal with the context, especially when that context is hostile to migrants' human rights and driven by powerful economic factors and political forces.

This paper offers points for discussion on several contextual aspects:

- structural demand for and reliance on increasing international labour and skills mobility.
- a few words on development and migration
- structural and systemic pressures exacerbating exploitation and abuse of migrants.
- the existing rigorous and comprehensive framework for governance of migration.
- assaults on the normative and institutional framework for rights based governance of migration
- elements for a renewed rights-based approach to migration.

1. Migration today?

A contextual reminder to ground our discussion. The UN estimated that in 2014, there are some 232 million “international migrants” resident outside their country of birth or citizenship. This may be a significant undercount since it does not include non-resident short-term, temporary and/or seasonal migrants. The figure does include, to some degree, migrants in unauthorized or irregular situations. The ILO calculated that 105 million of the 214 million people living outside their countries of birth or citizenship in 2010 are economically active. That is to say: employed, self-employed or otherwise engaged in remunerative activity. That represents nearly all of those of working age. Given an estimate of one accompanying dependent for each active adult, well over 90 per cent of migration today is bound up in labour and employment outcomes.¹

Economic contributions and the employment characteristics of migrants are central to labour markets and labour force composition, in more than 100 countries today. Foreign born workers now comprise 10% to 15% of labour forces in Western European countries, around 18% in immigration countries of Australia, Canada and the USA.² Taking account of offspring of recent immigrants gives figures of 20% or more of work forces “issue de l'immigration” in some European countries; 19.6% of the German population is foreign-born or first generation “issue de la migration”. 49% of the population of Vienna is either foreign born or has at least one foreign-born parent.

Also growing portions in many countries in Africa, Asia, the Americas, the Caribbean, and Eurasia are comprised by migrants or migrant origin citizens. For example, 25% of the population of Ivory Coast. Proportions of work forces in most member states of the Gulf Coordination Council (GCC) are majority if not overwhelmingly foreign: 93% in the case of Qatar.

Worldwide, around 60% or more of all migration is taking place within regional economic communities (RECs), whether ASEAN, ECOWAS, *Mercosur*, the EU, SADC, or the several other formal RECs in Africa, Asia, the Americas and Eurasia. That is to say, most migration originating in member countries of regional economic communities goes to or circulates among

¹ ILO, *International Labour Migration: a Rights Based Approach*, International Labour Office, Geneva, 2010, page 1.

² Recent figures for most EU countries and “immigration countries” mentioned are found in the OECD *International Migration Outlook: SOPEMI 2011 Statistical Annex*

other member countries of those RECs. Indeed, this is the case for the *Euromed* area, despite it not being established as a formal regional economic community.

For example, several ECOWAS member States host large numbers of migrant workers and workers of migrant origin from other West African countries; some 25% of the total population of Ivory Coast is "issue de l'immigration", nearly all from neighboring States. Nigeria has an estimated 2 million foreigners, most economically active with around 90% originating from other West African countries. Overall, about 80% of migration originating in West Africa goes to other ECOWAS/West African states, the proportion is about 60% for Southern Africa.

2 Development and migration

Development is the catchword for discussion of migration these days. However, contemporary migration and development discourse often depicts development as an issue of the 'South.' Yet economic and labour force data suggest that migration may be especially significant for development in the industrialized north. Indeed, migration may be about no less than the survival of development in the North.

As former mayor Ken Livingston once said, 'London would not make it to breakfast without migrants.' The population of the quintessentially Austrian city of Vienna today is 49.5% foreign born or has at least one foreign born parent! Proportions of foreign-born among populations of many major cities across Western Europe, North America and other regions are similarly significant.

Development is often simplistically equated with growth of GDP and/or increased production of goods and services. However, it is much more than that. A more adequate understanding of development is:

the elaboration of productive means, forces, and capacities to provide goods, services, technology and knowledge to meet human needs for sustenance and well being.

Development comprises building the material means for: extraction and transformation of resources; for production of goods, services and technology; for constructing infrastructures for transportation and distribution of resources, goods, services and people; and it is providing for human well-being in terms of housing, nutrition, healthcare, education and culture in its broad sense.³

Elaborating and maintaining these material means requires developing the labour force and its skills to do all this as well as to continue expanding technology, knowledge, and capital itself. And that is certainly as much an issue for the 'developed' North as for the developing South.

Evolution and diversification of technology along with transformations and relocations of industrial processes and changes in the organization of work itself are constant characteristics of the world of work today. This constant evolution requires accelerating complexity, diversity and specialization in the competencies and skills of work forces in each and every country worldwide.

No country today can form or train the entire range and number of ever-evolving skills and competencies needed to perform the ever more complex, inter-related work done on its territory.

This drives a constantly increasing, international mobility of skills, competences and labour at all skill levels. Migration is today international labour and skills mobility. It is the key factor to sustaining and renovating essential processes of development: production of goods, services and knowledge, distribution, construction of facilities for housing, education, healthcare and transportation.

For many enterprises in many countries, and for entire economic sectors, low cost, unprotected foreign labour is the only ticket to survival. Agriculture would simply not remain viable in Europe nor in North America, nor would a part of the population afford to eat without cheap immigrant labour. Health and home care for children and especially increasing populations of ageing people depends on migrants. As do hotel, restaurant and tourist sectors in numerous

³ In "Rethinking Development and Migration; Some Elements for Discussion," online GMPA Working Paper by Patrick Taran, Global Migration Policy Associates.

countries. Global, systemic, intense competition, free trade, and the race to the bottom phenomena push against costs of labour and provision of social services, indeed on the very social function of States.

Keeping some migrants cheap, docile, flexible –and removable without social obligations-- becomes not just highly desirable. It becomes imperative. Including to keep jobs at home. No matter what those jobs are and who is doing them. It is no accident that from 6 to 11 million undocumented migrants, mostly workers, have remained consistently in the US economy over the last three decades. It is also no accident that there are significant numbers of undocumented workers throughout the EU and in many other countries. Even as rhetoric abounds about controlling migration, migrant workers remain in irregular situations, often apparently tolerated because they provide that cheap, docile, flexible labour needed to sustain enterprises and activity –and employment-- in certain sectors.

Exploitative conditions for migrants are structurally driven. As is irregular migration. It's the nature of the system.

3. Exploitation

When labour does move as it must, it is often subject to abuse, exploitation and draconian repressive measures. Those who suffer most are the many persons simply obeying –often with little choice—the laws of supply and demand of the globalized capitalist market economy. In this situation, the basic dignity and rights of migrants as workers and human beings are undermined, especially those in irregular situations.

An excerpt from the executive summary of a recent report on the UK accurately sums up features consistent with data from other EU member countries:⁴

“Migrants, especially those from outside the EU15 who have limited access to social security provisions, face the paradoxical position of being welcomed by businesses and the state due to their high flexibility and minimal utilisation of the welfare state on the one hand, whilst facing increasing unease and hostility from anti-immigrant groups, the same state that welcomes them and large numbers of the general public on the other. The highly unregulated and flexible economy has allowed many migrants to easily find work and businesses to remain competitive whilst simultaneously creating the conditions for widespread exploitation and producing divisions amongst workers, both between (native) born/migrant and between different groupings of labour migrants. Exploitation is linked to a hierarchy of vulnerability with the rights and entitlements guaranteed or not by a migrant’s legal status, the legal provisions between the UK and a migrant’s ‘home’ country, unionisation, racism, contract type and flexibility all affecting this vulnerability hierarchy.”

It can be said that migration is the key zone of contention between labour and capital today. It is certainly where division of wealth is fought out-- how much of what is generated is returned to capital versus how much goes to working people as remuneration and to and populations as public services. Migration is also a terrain of dispute over conditions of work. Will work be decent or become yet more precarious and exploitative? Migrants are often the vectors of contention over conditions of work, investments in safety and health protections, in working environment versus lowering costs to obtain higher returns, or simply maintain returns, on capital.

Migration also poses the question of whether – not just to what extent-- working people can organize to defend and advance their interests. And migrant workers are key to whether and how employees –workers– freely associate and organize to collectively bargain for fair remuneration and decent work.

The plot thickens

New evidence suggests that the world is on the eve of far greater international mobility. And if restrictions in rights, working conditions and remuneration can imposed on this growing proportion of work forces, what better way of influencing developments for labour-capital relations as a whole?

⁴ Ian M. Cook, *Hierarchies of Vulnerability: Country report United Kingdom; Labour migration and the systems of social protection*, Multikulturni Centrum Praha, Czech Republic, 2011, page 4

Within 15 years, the majority of world's countries –and populations-- will be in work force decline and population ageing mode.⁵ Germany loses 5 million members of work force in next ten years, the Russian Federation has lost 10 million since 2000, and rate is now some 1 million workers less per year in its domestic labour force. The Japanese labour force will shrink 37% over the next 25 years. A recent study says that Switzerland will need 400,000 additional workers by 2030. And Qatar 1 million additional migrant workers before 2020. And there's the big one: China's work force will decline by between 126 and 180 million people in 20 years.

Moreover, Algeria, Argentina, Armenia, Azerbaijan, Brazil, Colombia, Indonesia, Iran, both Koreas, Lebanon, Mauritius, Mexico, Morocco, Peru, Qatar, Saudi Arabia, Singapore, Turkey, Vietnam, --among about 124 or 210 recognized countries or territories-- have reached or are reaching zero population growth fertility rates.⁶ Tunisia reached it 7 years ago; many industrialized countries are well below ZPG.

That means that over the next 15 years or less, all of these countries face increasing departures from the work force uncompensated by entrants. Already since 2012, the net flow of migration between the USA and Mexico is southward, to Mexico.

Meanwhile, according to a recent forecasting study by the McKenzie Global Institute, the global shortage of high skilled and trained technical skills is projected to reach 85 million. This in just seven years, when employers in some parts of the world already today complain that they cannot fill one in three jobs on offer with the needed level of skills.

This means increasingly intensified global competition for the most crucial economic resource of all today, labour and skills. And particularly for virtually all levels of trained skills.

4. The governance framework

The elaboration of national and international systems of government over the last century recognized that governance of societies and nations required regulation among conflicting and competitive interests in operating the means for production and distribution of goods, services, knowledge and technology.

The economic processes of capitalist industrialization clearly required normative regulation to provide protection and decent conditions for persons engaged in work. Regulation was also essential to support employment, to ensure social protection, and to invoke social dialogue to resolve contentions between the main economic actors in society: employers and workers. That was what a major part of the Treaty of Versailles that ended World War I was about.

International concern for protection of workers outside their own countries was explicitly established in the Treaty of Versailles of 1919. The first international conference on migration took place in 1923. That was in Bologna, Italy, convened by the Italian government under fledgling ILO auspices to press the destination countries of the day to reduce widespread and terrible abuse of the migrants of that time.

The first international treaties with provisions on legal and social protection for migrant workers were drawn up in the 1920s and 1930s. Subsequently, a range of instruments in several areas of international law established a comprehensive legal framework addressing specific areas requiring legal norms for governance.

This normative framework is set out in both migration specific instruments and in applicable provisions of other instruments. Most of the relevant provisions are found in five categories of international law:

The nine main Human Rights Conventions; 2) all up-to-date International Labour Standards

⁵ For a corporate view on the phenomena, see Ernst & Young online report: "Six global trends shaping the business world: Demographic shifts transform the global workforce" at <http://www.ey.com/GL/en/Issues/Business-environment/Six-global-trends-shaping-the-business-world---Demographic-shifts-transform-the-global-workforce>

⁶ See for example the *CIA World Factbook, Country Comparison: Total Fertility Rate(s)* at <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2127rank.html>. 2.2 children per woman is considered the 'replacement rate' of zero population growth, below which population will decline.

(that generally apply to all migrant workers with a very few specified exceptions); 3) the widely ratified 1951 Convention and 1967 Protocol on the Status of Refugees, 4) the Vienna Convention on Consular Relations; and 5) the two Protocols on trafficking in persons and smuggling of migrants to the Convention against transnational organized crime.

Several specific regional instruments on human rights, migrant workers, refugees, and trafficking established by the African Union, the Council of Europe, the European Union and the Organization of American States also provide relevant international normative guidance in their respective regions.

At the core of the global legal regime for migration governance are three complementary, sequential instruments specifically on international migration: ILO Conventions 97 and 143, and the subsequent ICRMW built on the ILO conventions. All three contain norms for governance and administration of migration and provisions for international dialogue and cooperation, as well as specific standards recognizing and protecting the rights of migrant workers and their families.

If the central issue is ensuring protection of migrants under the rule of law in nation States, then our discourse needs to better reflect reality. No less than 87 countries have ratified at least one of these three instruments. Counting in not yet ratified signatories of the ICRMW, 98 countries are legally bound to uphold migrants rights on their territories. That is some two-thirds of all countries for which migration is a significant economic, social and political governance concern. That means that a large portion of countries concerned have, or have committed to, putting national migration legislation, policy and practice --notably the protection of migrants-- within the framework of global international standards. That includes 11 of the 'EU 15' and some 22 of the 47 member States of the Council of Europe, nearly all Latin American countries and half of the member States of the African Union.

5. Rights-based framework under assault

Despite, or maybe because of its comprehensive normative approach, the existing regime of governance of migration is under unprecedented assault. It is well along the way of simply being replaced politically, structurally and indeed ideologically.

Vast changes in the existing architecture supporting governance of migration are well advanced.

The normative framework has been ruled irrelevant in much discourse. Considerable advocacy around the ICRMW is against ratification, not for. Certain States continue to press for reducing budgets for international supervision of migrant worker instruments. Budgets for promotion of the migrant worker instruments in the relevant UN agencies have been virtually non-existent since the 1980s. An overall indictment of the situation of the IMRWC is that in the nearly quarter century since its adoption by the General Assembly in 1990, there has never been even one person working full time on promoting its ratification by member States.

Meanwhile, the existing multilateral institutional architecture is being abandoned and torn down. The roles and competences of the relevant UN agencies as well as specific migration outcomes of the World Conferences over the last 20 years have been set aside. Instead, closed intergovernmental "States' owned" platforms for consultation and deal making on migration have been built outside the UN system. Similar developments have taken place at regional level, where regional intergovernmental processes have been convened outside existing multilateral normative migration regimes in regional communities of States.

In contrast, the United Nations forums on migration have evolved into discursive events, without necessarily seeking agreements on legal, policy or practical guidance for governance that would be 'constraining' collective wisdom with a degree of authority. Meanwhile, over the last eighteen months, the official posts on migration in three of five standards-based UN agencies have been eliminated.

At the national level, governance for migration --and the ideology of governance of migration-- is changing, in both old and new immigration countries. For decades, the locus of migration governance in most immigration countries was in labour and employment-concerned ministries. This reflected key needs to regulate the labour market and work force as well as support and

oversee employment relations and social dialogue. Most migration was, and is, bound up with the world of work. Regardless of motivations for migrating, whether employment, refugee flight, family reunion, studies or other, some 90% of migration is tied to engagement in economic activity as outcome, as noted earlier in this paper.

Now, the control, state security and repression institutions of States predominate in quite literally controlling migration and migrants. This includes in fundamental policy areas of labour and employment. What are the consequences if administration of the increasing foreign component of work forces is shifted to interior or home affairs ministries? If enforcement of law affecting workplaces moves from labour standards to immigration enforcement? If policing solutions are applied to labour conflicts instead of social dialogue? Is there a risk that arbitrary authority is privileged over strict application of normative standards? Or that social dialogue, freedom of association and collective bargaining rights not evoked in addressing employment relations of migrants workers and their employers.

Redefining a new regime for labour

Migration appears to be a vector used, consciously or not, to more broadly redefine conditions for labour. The treatment imposed on a 10 to 15 to 20% migrant component of work forces certainly can have a defining influence on treatment imposed on the work force as a whole.

Recent developments in Canada may be illustrative. Two years ago, the Canadian government authorized opening some 142 occupations to hiring of temporary foreign workers, who had previously been authorized only for agricultural and other seasonal occupations. A year later, the government issued an order authorizing employers to pay the foreign workers under this programme 15% less than prevailing wages for the jobs they did. Months later, another administrative authorization allowed employers who hire temporary foreign workers to pay national workers the same 15% less when they work the same job categories that foreign workers are doing in the same company.⁷ The Canadian Labour Congress sees that it is more than coincidental that one third of all new jobs created in Canada in the last year have been short term jobs, those often filled by foreign workers under the temporary programme.

Judicial decisions are also trumping labour standards for migrant workers, especially freedom of association and collective bargaining rights. Rulings by the European Court of Justice regarding labour issues and migration, albeit intra-community labour mobility, in the *Viking*, *Laval*, *Rüffert* and *Commission v. Luxembourg* cases illustrate a trend to subordinate labour protections to protection of 'free market' competition. These decisions explicitly constrain the applicability of labour protections in countries where work takes place for workers employed or posted to those countries from other member states by national or foreign enterprises. Although applicable to intra-community labour migration, they would have implications for treatment of third-country migrant workers as well.

Judicial Decisions elsewhere have constrained full application of labour standards to migrant workers, particularly those in irregular situations. For example, the US Supreme Court Ruling in *Hoffman Plastics vs NLRB* (National Labor Relations Board) decision in 2004 explicitly subordinated universal freedom of association rights to immigration enforcement.

Another redefinition is aggressive promotion of explicitly short term, temporary, and/or seasonal migration regimes, often under the generic misnomer "circular migration." Advocates of expanded 'circular migration' characterize it as the solution to both employment needs and to protection of 'national cohesion and cultural integrity' of nation states. 'Circular migration' temporary, short term migration regimes tend to offer explicitly restricted application of labour rights, such as exclusion of freedom of association while subjecting migrants and their employers to reduced or non application of labour standards and prevailing levels of remuneration. A justificatory discourse often invoked in promotion of such temporary regimes posits that the level of rights protections can be negotiable. The terminology of rights versus numbers is used to show the advantages of trade offs where wider access by migrant workers to higher wage labour markets would be obtained by accepting reductions in application of labour rights. The unsubstantiated argument that lowering wages will instigate creation of more

⁷ Reported by Karl Flecker, Canadian Labour Congress in briefing to Global Coalition on Migration, Tema, Ghana, 10 September 2012.

jobs is not infrequently invoked in this discourse.

The challenge of xenophobia and a good response

A particularly burning concern is the perceived generalized rise in both application of discriminatory policies and of racist, xenophobic behaviour against migrants. Hostility towards migrants has been manifested in nations across Africa, the Americas, Asia and Eurasia. GMPA is currently seeking to compile an initial, heretofore non-existent global assessment of manifestations and characteristics of discrimination against migrant workers and family members.

The concern is aggravated by the absence, with one or two exceptions, of vigorous responses by governments to anticipate, discourage, prevent and prosecute perpetrators of manifestations of racist and xenophobic hostility against foreigners.

Whether recognized or not, maintenance of social cohesion can only be achieved by deliberate policy comprising legal, institutional and practical measures. The demonstrable proof of effect is the fact that in a few countries –such as Ireland-- there have been almost no racist killings of migrants nor burnings of businesses, homes or places of worship of foreigners. There, anti-immigrant politicians and political parties have gained no traction, few votes and no prominence.

The generalized atmosphere of inclusion, in Ireland is no coincidence nor accident. It is the consequence of the political discourse projected from the highest level, in statements and acts by Presidents, by consistent official annual national Anti-Racism Workplace Weeks jointly instigated by government, social partners and civil society with highly visible media campaigning, public events, and awareness raising, organizing and advocacy in workplaces, communities, churches across the country. This attitude was further shaped in the exemplary Irish National Plan of Action Against Racism inspired by the Durban World Conference, elaborated in dialogue across Irish society and institutions. And where it counts at work, non-discrimination, anti-racism and integration of migrants have been prominent elements in the Irish national Social Partner agreements since the late 1990s, and have been incorporated in labour contracts, in trade union priorities and in training of business leaders and employers. Not to underestimate is the mutually reinforcing establishment of institutions to promote, advocate and monitor equality of treatment, non-discrimination and integration.

6. A way forward?

In sum, we confront a context characterized by rising hostility to migrants and declining application of the rights-based normative and institutional framework for migration governance.

Any progress in this arena requires mobilizing an *irresistible force* for extending the normative regime of governance. From a human point of view, the normative regime --the ICRMW in particular-- represents an *irresistible* set of values.

What's needed?

Firstly, reclaiming the debate – in human, and human rights terms.

Secondly, revalidating the instruments and institutions.

- This means, first and foremost, assertively promoting the ratification, implementation and supervision of the key international instruments, particularly the ICRMW.
- This means claiming support by States for effective operation of promotional and supervisory mechanisms.
- This means renewed campaigning, by civil society, international institutions and concerned States.
- This means coordination among the concerned mechanisms, treaty bodies, international agencies and civil society rights monitoring and promotion organizations. Including migrant associations.

The ICRMW and the normative framework it represents was obtained, defended, maintained, applied and expanded over the last century primarily through conscious and deliberate action and advocacy. Civil society, particularly worker organizations, have been and should remain key partners and instigators.

In the last two decades, civil society advocacy has certainly been the “game changer” in obtaining many of the now 47 ratifications and additional 18 signatories to the ICRMW. Civil society organizations and trade unions –often working together-- played significant roles in ratification or accession in at least 30 of the 47 States Parties. It has also been significantly involved in other government improvements in protection of migrants rights, in obtaining *regularizations* of status of migrants, and in maintaining social cohesion in situations of increasing immigration.

But this requires support, cooperation and coordination with the international institutions concerned, and the supervisory mechanisms such as the CMW. It requires support from concerned governments. It requires support from donors, foundations, who recognize the importance of realizing –not just predicating—human rights of migrants.

In broader terms, several civil society groups identified last year a shared agenda for work on advancing human and labour rights of migrants, built around the normative framework articulated in the ICRMW. While based on the normative standards, this agenda is necessarily broader. *Main concerns for action and advocacy reflect and build on activity by civil society organizations and networks worldwide, consistent with human rights standards and agendas of the United Nations and other international and regional organizations.* They include:

1) **Rights Protection:** strengthening effective protection of all migrants’ rights and dignity by adopting, implementing and enforcing national law and practice in conformity with international human rights standards; reaffirming that a normative human rights-based framework must be the primary foundation for national and intergovernmental governance of migration, and promoting ratification of the International Convention on rights of migrant workers along with ILO Conventions 97 and 143 on migration for employment.

2) **Decriminalization:** re-establishing that migration, regular or irregular, is not criminal; obtaining rights-respectful imagery and language of migrants and migration; ending use of terminology of illegality regarding migrants; decriminalizing immigration law, ending arbitrary, preventative, non-conviction detention; ending detention and deportation for non-criminal offences; differentiating suppression of migrant trafficking and smuggling from migration policy and administration.

3) **Preventing Discrimination and Xenophobia:** fighting all forms of discrimination against migrants, including structural and systemic; recognising and impeding multiple discrimination faced by migrants; preventing xenophobic hostility and violence against migrants/foreigners including that perpetrated or not prevented by the State; obtaining respect, equality of treatment and integration in accordance with international standards.

4) **Decent Work:** Extending application, supervision and enforcement of international labour standards to all migrant workers in all countries; regulating recruitment, hiring and the employment relationship; supervising recruitment agencies; extending labour protections to all occupations; ensuring equality of treatment and opportunity for all workers; ensuring strict separation of labour law enforcement from immigration control..

5) **Health:** realizing migrants’ right to health, including sexual and reproductive health, as well as effective access to prevention, education, care and treatment facilities and services, irrespective of migration status; avoiding discrimination based on health status, including HIV, pregnancy or communicable diseases.

6) **Social Protection:** extending access, coverage, equality of treatment and portability to migrants, including in informal situations irrespective of migration status; ensuring strict separation of access to and provision of social protection and social services from immigration control.

7) **Migrant self determination and Empowerment:** supporting unionization, migrant community organizing, including capacity building and networking;

8) **Gender:** obtaining specific and effective protection for specific risks with equality of opportunity and treatment for women and girl migrants; recognizing and addressing impacts of gendered aspects of migration; affirming women's autonomy protecting and fulfilling their rights throughout the migration experience; providing independent migration status for women that ensures the right to work and access to justice.

9) **Family life:** upholding and extending effective practice of the rights to family life and right to family

reunification; recognising that diverse forms of family exist

10) **Children:** acknowledge as individual rights holders; full access to and protection of rights; equality of treatment; taking into full account the views of the child in all circumstances.

11) **Defending migrants at particular risk:** obtaining recognition, protection of specific rights, and access to services and justice for migrants in irregular situations, migrants in transit, stranded migrants, victims of trafficking as well as refugees and asylum seekers.

12) **Realizing the right to remain** in conditions of dignity and safety with full recognition and respect for human rights as defined in international standards, whether in homeland of origin or in place of habitual residence; providing for paths to citizenship for migrants with established residency in destination countries.

In Conclusion

History tells us that migration has been an essential ingredient of growth and development of many countries. International mobility will be essential to economic survival of many countries in the years to come. However, unless regulated by appropriate laws and policies articulated in the International Convention on rights of migrant workers, migration will entail high costs in violations of rights of persons, in social disruption, in reduced productivity, and in lost opportunities for development. Migration must be governed under the rule of law, with the involvement of key stakeholders, notably employers and worker unions as well as civil society. It must uphold equality of treatment and the full application of rights and protection for all workers present in any country. It is time again to assertively promote wider ratification and implementation of the ICRMW.

* * *

Patrick Taran,
President, Global Migration Policy Associates (GMPA)
email: _taran@globalmigrationpolicy.org
www.globalmigrationpolicy.org