



Regional Conference: Human Rights in Migration Governance From Influences to Responsibilities and Practice

15-17 October 2018 – Nairobi, Kenya

Recommendations for Mainstreaming Human Rights in Migration Governance

Background

GIZ under the Better Migration Management (BMM) programme hosted a regional conference in collaboration with the Kenya National Commission on Human Rights (KNCHR) and the Intergovernmental Authority on Development (IGAD) titled: “Human Rights in Migration Governance - From Influences to Responsibilities and Practice” in Nairobi, Kenya from 15-17 October 2018. The BMM programme adopts a rights-based approach to migration management to protect the human rights of migrants. Through close coordination with government partners in the region and IGAD, the programme supports the establishment of transparent frameworks and fair policies which reduce migration-related risks and help increase awareness on migrant rights.

To this end, the regional conference welcomed a wide range of regional and global experts, policymakers, practitioners and academics in Nairobi to develop practical recommendations to ensure that migrants do not leave their rights behind at any stage in their journey.

Preface

Migrants are human beings regardless of their status. They have the right to be treated as such and live their life in dignity. Migrants are not inherently vulnerable, but irregular and forced migration considerably increase the vulnerability of people on the move. Irregular migration, crossing borders without the legal paperwork, often with the help of smugglers or through the hands of traffickers, increases the risk of human rights violations against migrants. Because of fear of being caught ‘illegally’ in the country, many migrants tolerate lack of due process, exploitation and arbitrary detention. Prejudice and xenophobia often result in little sympathy from communities. Mainstreaming human rights in migration governance requires a holistic and coordinated effort among policymakers, civil society, media, and academics to confront the challenges of international migration with an informed and human rights-based approach. With 14% of Africans on the move¹ and 85% of African migration taking place on the continent rather than intercontinental², the benefits of migration should be harnessed for trade, skills transfer, remittances, labour, and positive exchange.

On 17 October 2018 over 150 participants gathered in Nairobi to provide recommendations on these challenges and opportunities. Three thematic working groups were formed at the regional conference: 1. Children on the Move 2. Labour Migration and 3. Human Trafficking and Migrant Smuggling.

¹ UN, International Migration Report, 2017

² ILO, 2016

Implemented by



These are the initial recommendations of the conference. BMM, KNCHR and IGAD will review the discussions from the conference to shape concrete and actionable recommendations to be taken up by regional human rights institutions and IGAD member states to ensure the dignity of people on the move.

Recommendations

Children on the Move

Younger persons, below age 20, tend to be underrepresented in reports and in the media when discussing international migration. Globally, 14 per cent of all migrants are under the age of 20 years, compared to a proportion of 34 per cent of the total population³. Due to their age, children may fall victim to human trafficking and the heinous forms of exploitation that it entails.

Recommendations:

- Improve communication and dedicated mechanisms among stakeholders e.g. government, civil society organisations, and individuals
- Provide guidelines for undocumented child migrants and how they can access services
- Child involvement needs to be included in the SDGs and the global compact in a separate section
- National Human Rights Institutions should produce position statements on issues that affect migrant children's rights and should have regional forums to exchange best practices
- Child protection actors should be present in migrant response centres to do Best Interest Determination. Response Centres should have separate facilities for children

Labour Migration

90% of all migration is labour migration⁴. Yet, we usually discuss migration in a border and security context, not in a labour market and labour rights context. Therefore, when discussing migration policy, all labour actors need to be at the table, including workers' and employers' organisations, social security actors, education policy-makers, etc. Countries should come to terms with the reality that mobility within an integrating region is 'the new normal'. The benefits of labour migration should be the focus of discussion, so they can be fully realised for regional economic development.

Recommendations:

- Regional organisations should learn from each other and consider their own history of mobility and regional identity
- Conduct a study on the development impact of free labour movement protocols in different regional organisations and advocate for the implementation of not just free movement protocols but free labour mobility where appropriate

³ UN, International Migration Report, 2017

⁴ ILO, 2016

- Review migration/citizenship policies with a view to allowing dual citizenship, which encourages investment and reduces brain drain
- Encourage more and better data collection on migration and remittances in Africa to
 - make regulators understand the scale of the issue and address migration-related issues such as portable pension schemes, etc.
 - convince banks that it's worthwhile to open up remittance corridors
- Irregular migration should be seen as an administrative not a criminal offense
- Labour migration requires input and involvement from the private sector as they can work together with governments to adopt labour mobility laws

Human Trafficking and Migrant Smuggling

With more and more people on the move, mechanisms for safe and orderly migration need to catch up with the reality of international migration. In accordance with our obligations under international law, the special needs of all people in vulnerable situations travelling as part of large movements of migrants need to be considered to ensure they don't fall victim to human trafficking or victims of exploitation and abuse in the context of the smuggling of migrants.

Recommendations:

- Provide a Victims of Trafficking rights-based approach that avoids further victimisation and roll-out of minimum standards for first responders and social service providers
- Address local and internal trafficking with an increased role of civil society
- Adopt Standard Operating Procedures with a child-focused and gender-sensitive lens
- Increase awareness raising through targeted and contextualised messaging and utilise the role of social media (peer-to-peer)



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