

Permanent Mission of Bangladesh Geneva

Dated: 10 May 2017

Subject: Written submission of recommendations of Bangladesh related to the first thematic consultations of the consultative phase of GCM on "Human rights of all migrants, social inclusion, cohesion and all forms of discrimination, including racism, xenophobia and intolerance" held on 8-9 May 2017 in Geneva.

1. Overarching recommendations for the whole consultative process:

- i). The GCM should be consistent with and should actually support the 2030 Sustainable Development Agenda, meaning that the GCM should provide a practical pathway to achieving target 10.7 of the 2030 Agenda. For this, commitments made in the New York Declaration should be implemented through the GCM. Also, the principles and objectives agreed upon in the Migration Governance Framework (MiGoF) of the IOM should be well incorporated therein.
- ii). Human Rights of Migrants should be at the core of the discourse on migration in order to ensure protection of all migrants regardless of migratory status, and the GCM should capture this well.
- iii). The GCM should elaborately address the issue of identifying ways and means of ensuring effective protection for "migrants in vulnerable situation". In this connection, this is also important to agree upon the definition of "migrants in vulnerable situation".
- iv). The GCM should espouse the inclusion of migrants in host societies, including through non-discrimination.
- v). The GCM should call upon Member States to ensure all migrants' access to health, education and labour market.
- vi). The GCM should address the issues of irregular migration, human trafficking and migrant smuggling in a comprehensive manner with agreed upon guidelines and by fostering international cooperation in this regard.
- vii). The GCM should, in order to address labour market needs, incorporate ways and means of opening legal channels for safe and regular movements of migrant workers at all skill levels.
- viii). The enhancement of the development impacts of migration, both in origin and in host societies, should be incorporated in the GCM, including the role of remittance in country of origin as a driver of poverty reduction and income increase, and in host countries in terms of the economic gains due to added workforce.

2. On "Human Rights of all Migrants" (panel 1):

1. To remain true to the promise of the New York Declaration, the GCM should strive to foster a human rights-based approach to migration, premised on the principles of universality, indivisibility and interdependence, participation, non-discrimination and accountability.

2. The GCM needs to articulate concrete measures concerning removing all barriers for migrants to access justice and complaints mechanisms. Such barriers may include, among others, lack of language skills, restrictions on movement including detention, limited information about their rights, lack of legal aid and lack of legal status or identity and lack of guarantees for due process.
3. Concerning migrants in irregular situation, who are likely to face additional legal and practical barriers undermining their rights and freedoms and rendering them disproportionately vulnerable to discrimination, marginalization and abuse, the GCM needs to spell out firm undertaking to treat them with dignity and confer on them all human rights.
4. The GCM should spell out internationally agreed measures to ensure necessary "firewalls", which is lacking at this moment in many countries, between immigration enforcement and public services, underscoring the fact that while irregular entry and stay may constitute administrative offences, they are not crimes per se against persons, property or national security. This may be attained through a whole-of-government approach, involving all concerned ministries and departments of the Government working in a coordinated manner.
5. Considering the fact that migrants in irregular situation are disproportionately vulnerable to discrimination, exploitation and marginalization with reduced or non-existent means of redress, the GCM should explicitly declare that such migrants with irregular status are included into the category "Migrants in vulnerable situation" from a human rights and humanitarian perspective.
6. Underscoring the fact that there is strong evidence that regularization can be an effective means to address migrant vulnerability, and to ensure the inclusion of migrants in society, the GCM should articulate effective measures to further expand legal pathways of migration including family reunification, study, humanitarian considerations including health issues and skill mobility. Evidence also shows that migrants are less likely to violate immigration procedures if their basic needs are met through legal avenues, they are not at risk of detention or refoulement, and they can remain hopeful regarding future prospects.
7. Based on the clear evidence that detention of migrants does not offer a form of deterrence, given the high numbers of people who migrate again following unsustainable return, often in more perilous conditions, the GCM should state that detention should be considered as the last resort in case of combating irregular migration and rather ensuring rights, adequate protection and safeguards should be the alternative to detention, and children and migrants in case of family reunification should not be detained under any circumstance due to immigration related cause.
8. The GCM should call upon Member States to commence discussing international cooperation in border management with full respect for the human rights of migrants.

3. On " Social inclusion and cohesion " (panel 2):

1. The GCM should, taking into account the fact that protecting rights and valuing the contributions of migrants are essential aspects of building cohesive societies, define conditions of inclusion for migrants in accordance with the international human rights framework, including

protection of their economic, social and cultural rights, in particular education, health, social security, adequate housing and freedom of religion.

2. The GCM should urge upon Member States to nullify all existing policies of criminalization and exclusion of migrants as well as securitization of migration, which are liable to produce widespread and harmful consequences and have not been proved, as wrongly perceived, effective deterrent to irregular migration.

3. The GCM needs to explicitly assert health as a fundamental right and as an essential precondition to improve livelihoods for all migrants, and address the widespread phenomena of lack of migrants' access to equitable social and health services and financial protection for health. Other barrier to accessing health services including high costs, legal barriers, language and cultural differences, administrative hurdles, lack of information about health entitlements etc. are to be removed gradually.

4. The GCM should urge upon all Member States to ensure acceptable working conditions for migrants, including those in irregular situation, and elimination of child labour involving all migrant children.

5. The GCM should urge upon Member States to become States Parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).

6. The GCM should elaborate the ways and means of a whole-of-society approach, including local governments, civil society, employers' organizations, national human rights bodies, private sector, security agencies and youth organizations and migrants themselves to ensure effective protection and inclusion of migrants.

7. To ensure that migrants' integration policies are not creating inequalities or otherwise obstructing the enjoyment of human rights, and to encourage safe, regular, human rights-based and gender-responsive migration policies, States should be urged upon by the GCM to monitor the effects of these policies and actions through gathering disaggregated data.

4. On "All forms of discrimination, including xenophobia, racism and intolerance"(panel 3):

1. The GCM should call upon Member States to formulate robust national legislation against acts of xenophobia, intolerance, racism, violence and hate crimes targeted towards migrants. Gender based violence against women and girl migrants should be given special emphasis in this regard.

2. The GCM should ask for a whole-of-society approach to combat the negative narrative against migrants including use of demeaning or sweeping language to describe migrants as well as the false attribution of criminality or of negative social characteristics of migrants. Also, States should consider putting in place legal protection against such negative narratives. In this connection, the GCM should welcome the global campaign proposed by the Secretary-General of the United Nations with the objective of establishing direct contact between host communities and refugees and migrants and highlighting the positive contributions made by the latter, as mentioned in the paragraph 14 of the New York Declaration, and reiterate Member States' willingness to implement it in cooperation with the United Nations and all relevant stakeholders, in accordance with international law.

3. The GCM should call upon the Member States to pursue a whole-of-Government approach in addressing existing discriminatory policies against migrants and to ensure their equal access to basic rights like health, education and livelihood.

4. The GCM should call upon Member States to ensure official and accessible complaint mechanism(s) for migrants subject to discrimination, xenophobia and racism, in order to overcome

existing barriers for migrants due to, among others, fear of exposure and repercussions, linguistic and cultural differences and biased law enforcement and discriminatory decision-making.

5. The GCM should call upon Member States to commit to establishing partnerships with political parties, media, private sector and local communities to promote tolerance and respect for all migrants and to introduce public education measures as well as child rights education programs and curricula. States should also conduct targeted awareness campaigns, including the one proposed by the Secretary-General of United Nations mentioned earlier in order to combat prejudice against and the social stigmatization of migrants.

----x----